

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

Chairman Jim Patrick asked Town Code Enforcement officer Shawn Grasby if the proposed subdivision meets all of the required Town codes, to which Officer Grasby confirmed. Officer Grasby added that there was some discussion as to the acreage in the proposed subdivision as the realtor selling the proposed smaller subdivided parcel listed the acreage at 2.6 acres, but that the map clearly lists the property as 3 acres.

Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

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Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

Chairman Jim Patrick asked if any additional community member wished to speak. Community member Chad Woodworth asked if many other subdivisions that have been presented before the board show surveys that measure from the centerline of the road. Chairman Jim Patrick stated that he couldn't speak to that without reviewing previous surveys, but stated that based off of his own surveys he believes that it is fairly typical to measure based off of the centerlines of the road. Mr. Woodworth stated that his own property shows what he actually gets taxed upon as the acreage, but that the pins are reflected on his survey.

Community member Cathie Gehrig asked if Town Code Enforcement Officer Shawn Grasby could answer Chad Woodworth's question, to which Chairman Jim Patrick stated that the questions should be directed at the board as a whole and not to the Code Enforcement Officer. Ms. Gehrig asked the question again but directed at the board, to which Chairman Patrick asked Officer Grasby if he's aware of how the previous land surveys included with subdivision applications have reflected the calculated acreage, to which Officer Grasby answered that all surveys that he knows of with properties located on county roads are measured from the centerline of the road. Ms. Gehrig asked if this includes four-rod roads, to which Chairman Patrick said yes. Ms. Gehrig stated that she believed that the board is setting a serious precedent. Chairman Patrick disagreed and stated that the land included on the proposed subdivision has already been developed and stated that he would otherwise agree with Ms. Gehrig if the land had not already been developed. Ms. Gehrig asked if she wished to circumvent the three-acre requirement in the Town Code if this is how she'd go about it. Chairman Patrick responded that he isn't there to advise on hypotheticals and that he focused on the application in front of him.

Chairman Jim Patrick asked if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Cathie Gehrig added that she is not speaking in opposition to the particular subdivision application, but that she is in opposition to the non-conformity to Town Code.

Chairman Jim Patrick asked Town Code Enforcement Officer Shawn Grasby if he had any additional comments regarding Mr. Borntreger's application, to which Officer Grasby stated that he didn't have anything else to add other than stating that O'Donahue has submitted many detailed surveys to the board previously without issue. Board member Larry Woodworth asked what would happen if a property owner took a plow and started digging up the part of the road that a land survey shows that a property owner owns, to which Town Code Enforcement Officer Shawn Grasby replied that the Town and/or County would still have an easement on that piece of land so digging would not be permitted unless the road and accompanying easement were formally abandoned by the Town and/or County. Larry Woodworth stated that this could lead to a property owner paying taxes on property that they cannot use or alter. Officer Grasby stated that he isn't sure as to how that works.

Chairman Jim Patrick asked for additional questions from the board. Larry Woodworth stated that he thinks that the board should get a qualification from the county to determine where the property lines are located. Chairman Patrick stated that the application and survey meet the intent of the code and asked where the Town stood on moving towards smaller lot requirements within the Town Code. Community

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Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

Town Code Enforcement Officer Shawn Grasby stated that he did have a meeting with the applicant for this subdivision and that he stated what the requirements were. Officer Grasby added that he knows that his code book states to measure from the centerline of the road and stated that he might want to reach out to the Town Attorney to ask where the lines should be measured from.

Chairman Jim Patrick asked the applicant if he would mind adding approximately half an acre to the smaller parcel, to which Mr. Borntreger stated that he would not object to doing so. Mr. Borntreger added that he would have done so from the start if he'd only been counseled to do so.

Community member Cathie Gehrig stated that she is attending this meeting because she'd received several calls from community members regarding the acreage listed in the parcel as it was reflected first as 2.4 acres, and then 2.6 acres.

Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

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Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Village Code Enforcement Officer Mark Mullikin stated that he has referred prints to the Village Engineer but has not received work back yet. Officer Mullikin believed that the preliminary review may come to the Planning Board as soon as next month but that he couldn't be sure.

Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

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Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

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No: 0

Abstain: 0

The motion was carried.

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Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

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No: 0

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The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Village Code Enforcement Officer Mark Mullikin stated that he has referred prints to the Village Engineer but has not received work back yet. Officer Mullikin believed that the preliminary review may come to the Planning Board as soon as next month but that he couldn't be sure.

Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

#### CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

#### PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

Chairman Jim Patrick asked Town Code Enforcement officer Shawn Grasby if the proposed subdivision meets all of the required Town codes, to which Officer Grasby confirmed. Officer Grasby added that there was some discussion as to the acreage in the proposed subdivision as the realtor selling the proposed smaller subdivided parcel listed the acreage at 2.6 acres, but that the map clearly lists the property as 3 acres.

Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

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Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

Chairman Jim Patrick asked if any additional community member wished to speak. Community member Chad Woodworth asked if many other subdivisions that have been presented before the board show surveys that measure from the centerline of the road. Chairman Jim Patrick stated that he couldn't speak to that without reviewing previous surveys, but stated that based off of his own surveys he believes that it is fairly typical to measure based off of the centerlines of the road. Mr. Woodworth stated that his own property shows what he actually gets taxed upon as the acreage, but that the pins are reflected on his survey.

Community member Cathie Gehrig asked if Town Code Enforcement Officer Shawn Grasby could answer Chad Woodworth's question, to which Chairman Jim Patrick stated that the questions should be directed at the board as a whole and not to the Code Enforcement Officer. Ms. Gehrig asked the question again but directed at the board, to which Chairman Patrick asked Officer Grasby if he's aware of how the previous land surveys included with subdivision applications have reflected the calculated acreage, to which Officer Grasby answered that all surveys that he knows of with properties located on county roads are measured from the centerline of the road. Ms. Gehrig asked if this includes four-rod roads, to which Chairman Patrick said yes. Ms. Gehrig stated that she believed that the board is setting a serious precedent. Chairman Patrick disagreed and stated that the land included on the proposed subdivision has already been developed and stated that he would otherwise agree with Ms. Gehrig if the land had not already been developed. Ms. Gehrig asked if she wished to circumvent the three-acre requirement in the Town Code if this is how she'd go about it. Chairman Patrick responded that he isn't there to advise on hypotheticals and that he focused on the application in front of him.

Chairman Jim Patrick asked if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Cathie Gehrig added that she is not speaking in opposition to the particular subdivision application, but that she is in opposition to the non-conformity to Town Code.

Chairman Jim Patrick asked Town Code Enforcement Officer Shawn Grasby if he had any additional comments regarding Mr. Borntreger's application, to which Officer Grasby stated that he didn't have anything else to add other than stating that O'Donahue has submitted many detailed surveys to the board previously without issue. Board member Larry Woodworth asked what would happen if a property owner took a plow and started digging up the part of the road that a land survey shows that a property owner owns, to which Town Code Enforcement Officer Shawn Grasby replied that the Town and/or County would still have an easement on that piece of land so digging would not be permitted unless the road and accompanying easement were formally abandoned by the Town and/or County. Larry Woodworth stated that this could lead to a property owner paying taxes on property that they cannot use or alter. Officer Grasby stated that he isn't sure as to how that works.

Chairman Jim Patrick asked for additional questions from the board. Larry Woodworth stated that he thinks that the board should get a qualification from the county to determine where the property lines are located. Chairman Patrick stated that the application and survey meet the intent of the code and asked where the Town stood on moving towards smaller lot requirements within the Town Code. Community

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member Cathie Gehrig stated that that recommendation did not pass, and that the public hearing for it packed the Town Hall with community members who spoke in opposition to it.

Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

Town Code Enforcement Officer Shawn Grasby stated that he did have a meeting with the applicant for this subdivision and that he stated what the requirements were. Officer Grasby added that he knows that his code book states to measure from the centerline of the road and stated that he might want to reach out to the Town Attorney to ask where the lines should be measured from.

Chairman Jim Patrick asked the applicant if he would mind adding approximately half an acre to the smaller parcel, to which Mr. Borntreger stated that he would not object to doing so. Mr. Borntreger added that he would have done so from the start if he'd only been counseled to do so.

Community member Cathie Gehrig stated that she is attending this meeting because she'd received several calls from community members regarding the acreage listed in the parcel as it was reflected first as 2.4 acres, and then 2.6 acres.

Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

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Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

#### CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

#### PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

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Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

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A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

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No: 0

Abstain: 0

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Abstain: 0

The motion was carried.

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Village Code Enforcement Officer Mark Mullikin stated that he has referred prints to the Village Engineer but has not received work back yet. Officer Mullikin believed that the preliminary review may come to the Planning Board as soon as next month but that he couldn't be sure.

Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

Chairman Jim Patrick asked Town Code Enforcement officer Shawn Grasby if the proposed subdivision meets all of the required Town codes, to which Officer Grasby confirmed. Officer Grasby added that there was some discussion as to the acreage in the proposed subdivision as the realtor selling the proposed smaller subdivided parcel listed the acreage at 2.6 acres, but that the map clearly lists the property as 3 acres.

Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

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Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

Chairman Jim Patrick asked if any additional community member wished to speak. Community member Chad Woodworth asked if many other subdivisions that have been presented before the board show surveys that measure from the centerline of the road. Chairman Jim Patrick stated that he couldn't speak to that without reviewing previous surveys, but stated that based off of his own surveys he believes that it is fairly typical to measure based off of the centerlines of the road. Mr. Woodworth stated that his own property shows what he actually gets taxed upon as the acreage, but that the pins are reflected on his survey.

Community member Cathie Gehrig asked if Town Code Enforcement Officer Shawn Grasby could answer Chad Woodworth's question, to which Chairman Jim Patrick stated that the questions should be directed at the board as a whole and not to the Code Enforcement Officer. Ms. Gehrig asked the question again but directed at the board, to which Chairman Patrick asked Officer Grasby if he's aware of how the previous land surveys included with subdivision applications have reflected the calculated acreage, to which Officer Grasby answered that all surveys that he knows of with properties located on county roads are measured from the centerline of the road. Ms. Gehrig asked if this includes four-rod roads, to which Chairman Patrick said yes. Ms. Gehrig stated that she believed that the board is setting a serious precedent. Chairman Patrick disagreed and stated that the land included on the proposed subdivision has already been developed and stated that he would otherwise agree with Ms. Gehrig if the land had not already been developed. Ms. Gehrig asked if she wished to circumvent the three-acre requirement in the Town Code if this is how she'd go about it. Chairman Patrick responded that he isn't there to advise on hypotheticals and that he focused on the application in front of him.

Chairman Jim Patrick asked if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Cathie Gehrig added that she is not speaking in opposition to the particular subdivision application, but that she is in opposition to the non-conformity to Town Code.

Chairman Jim Patrick asked Town Code Enforcement Officer Shawn Grasby if he had any additional comments regarding Mr. Borntreger's application, to which Officer Grasby stated that he didn't have anything else to add other than stating that O'Donahue has submitted many detailed surveys to the board previously without issue. Board member Larry Woodworth asked what would happen if a property owner took a plow and started digging up the part of the road that a land survey shows that a property owner owns, to which Town Code Enforcement Officer Shawn Grasby replied that the Town and/or County would still have an easement on that piece of land so digging would not be permitted unless the road and accompanying easement were formally abandoned by the Town and/or County. Larry Woodworth stated that this could lead to a property owner paying taxes on property that they cannot use or alter. Officer Grasby stated that he isn't sure as to how that works.

Chairman Jim Patrick asked for additional questions from the board. Larry Woodworth stated that he thinks that the board should get a qualification from the county to determine where the property lines are located. Chairman Patrick stated that the application and survey meet the intent of the code and asked where the Town stood on moving towards smaller lot requirements within the Town Code. Community

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member Cathie Gehrig stated that that recommendation did not pass, and that the public hearing for it packed the Town Hall with community members who spoke in opposition to it.

Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

Town Code Enforcement Officer Shawn Grasby stated that he did have a meeting with the applicant for this subdivision and that he stated what the requirements were. Officer Grasby added that he knows that his code book states to measure from the centerline of the road and stated that he might want to reach out to the Town Attorney to ask where the lines should be measured from.

Chairman Jim Patrick asked the applicant if he would mind adding approximately half an acre to the smaller parcel, to which Mr. Borntreger stated that he would not object to doing so. Mr. Borntreger added that he would have done so from the start if he'd only been counseled to do so.

Community member Cathie Gehrig stated that she is attending this meeting because she'd received several calls from community members regarding the acreage listed in the parcel as it was reflected first as 2.4 acres, and then 2.6 acres.

Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

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Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.



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Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

#### CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

#### PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

Chairman Jim Patrick asked Town Code Enforcement officer Shawn Grasby if the proposed subdivision meets all of the required Town codes, to which Officer Grasby confirmed. Officer Grasby added that there was some discussion as to the acreage in the proposed subdivision as the realtor selling the proposed smaller subdivided parcel listed the acreage at 2.6 acres, but that the map clearly lists the property as 3 acres.

Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

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Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

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April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

member Cathie Gehrig stated that that recommendation did not pass, and that the public hearing for it packed the Town Hall with community members who spoke in opposition to it.

Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

Town Code Enforcement Officer Shawn Grasby stated that he did have a meeting with the applicant for this subdivision and that he stated what the requirements were. Officer Grasby added that he knows that his code book states to measure from the centerline of the road and stated that he might want to reach out to the Town Attorney to ask where the lines should be measured from.

Chairman Jim Patrick asked the applicant if he would mind adding approximately half an acre to the smaller parcel, to which Mr. Borntreger stated that he would not object to doing so. Mr. Borntreger added that he would have done so from the start if he'd only been counseled to do so.

Community member Cathie Gehrig stated that she is attending this meeting because she'd received several calls from community members regarding the acreage listed in the parcel as it was reflected first as 2.4 acres, and then 2.6 acres.

Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Village Code Enforcement Officer Mark Mullikin stated that he has referred prints to the Village Engineer but has not received work back yet. Officer Mullikin believed that the preliminary review may come to the Planning Board as soon as next month but that he couldn't be sure.

Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

#### CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

#### PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

A motion to open the public hearing on Benjamin Borntreger’s minor subdivision application for 3167 Moyer Road in Mount Morris, Tax ID 133.00-1-13.116, was introduced by Larry Woodworth and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

Chairman Jim Patrick asked Town Code Enforcement officer Shawn Grasby if the proposed subdivision meets all of the required Town codes, to which Officer Grasby confirmed. Officer Grasby added that there was some discussion as to the acreage in the proposed subdivision as the realtor selling the proposed smaller subdivided parcel listed the acreage at 2.6 acres, but that the map clearly lists the property as 3 acres.

Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

Chairman Jim Patrick asked if any additional community member wished to speak. Community member Chad Woodworth asked if many other subdivisions that have been presented before the board show surveys that measure from the centerline of the road. Chairman Jim Patrick stated that he couldn't speak to that without reviewing previous surveys, but stated that based off of his own surveys he believes that it is fairly typical to measure based off of the centerlines of the road. Mr. Woodworth stated that his own property shows what he actually gets taxed upon as the acreage, but that the pins are reflected on his survey.

Community member Cathie Gehrig asked if Town Code Enforcement Officer Shawn Grasby could answer Chad Woodworth's question, to which Chairman Jim Patrick stated that the questions should be directed at the board as a whole and not to the Code Enforcement Officer. Ms. Gehrig asked the question again but directed at the board, to which Chairman Patrick asked Officer Grasby if he's aware of how the previous land surveys included with subdivision applications have reflected the calculated acreage, to which Officer Grasby answered that all surveys that he knows of with properties located on county roads are measured from the centerline of the road. Ms. Gehrig asked if this includes four-rod roads, to which Chairman Patrick said yes. Ms. Gehrig stated that she believed that the board is setting a serious precedent. Chairman Patrick disagreed and stated that the land included on the proposed subdivision has already been developed and stated that he would otherwise agree with Ms. Gehrig if the land had not already been developed. Ms. Gehrig asked if she wished to circumvent the three-acre requirement in the Town Code if this is how she'd go about it. Chairman Patrick responded that he isn't there to advise on hypotheticals and that he focused on the application in front of him.

Chairman Jim Patrick asked if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Cathie Gehrig added that she is not speaking in opposition to the particular subdivision application, but that she is in opposition to the non-conformity to Town Code.

Chairman Jim Patrick asked Town Code Enforcement Officer Shawn Grasby if he had any additional comments regarding Mr. Borntreger's application, to which Officer Grasby stated that he didn't have anything else to add other than stating that O'Donahue has submitted many detailed surveys to the board previously without issue. Board member Larry Woodworth asked what would happen if a property owner took a plow and started digging up the part of the road that a land survey shows that a property owner owns, to which Town Code Enforcement Officer Shawn Grasby replied that the Town and/or County would still have an easement on that piece of land so digging would not be permitted unless the road and accompanying easement were formally abandoned by the Town and/or County. Larry Woodworth stated that this could lead to a property owner paying taxes on property that they cannot use or alter. Officer Grasby stated that he isn't sure as to how that works.

Chairman Jim Patrick asked for additional questions from the board. Larry Woodworth stated that he thinks that the board should get a qualification from the county to determine where the property lines are located. Chairman Patrick stated that the application and survey meet the intent of the code and asked where the Town stood on moving towards smaller lot requirements within the Town Code. Community



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member Cathie Gehrig stated that that recommendation did not pass, and that the public hearing for it packed the Town Hall with community members who spoke in opposition to it.

Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

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Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

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Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

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Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

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Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Present: Jim Patrick, Planning Board Chairman; Planning Board Members Phil Race, Larry Woodworth, and Joel Clester

Others Present: Shawn Grasby, Town Code Enforcement Officer; Mark Mullikin, Village Code Enforcement Officer; Bill Manthey, Village Trustee; Joe Rawleigh, Town Councilman; Don Huff, Town Councilman; Kevin Fahey, Community Member and Zoning Board of Appeals Chairman; Randy Clymo, Groveland Planning Board Chairman; Community members Gretchen Saunders, Pete DiSalvo, Beverly Sackett, Cathie Gehrig, Chad Woodworth, and Ben Borntreger

#### CALL TO ORDER AND REVIEWAL OF MINUTES

The meeting was called to order by Chairman Jim Patrick at 6:32pm.

Shawn Grasby led the Pledge of Allegiance. All members in attendance introduced themselves.

Chairman Patrick stated that he realized that several attendees might be looking for further information regarding the Village Solar Law and stated that the proposal was reviewed and commented upon by Planning Board members at the March 20<sup>th</sup>, 2024, regular meeting. Chairman Patrick stated that one of the comments included that the special use permits required within the proposed code for solar panels and arrays should be by the Planning Board rather than the Village Board, and that the proposed three-foot separation between arrays on residential roofs should be changed from “between” to “surrounding”. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if there were other comments that Chairman Patrick might be failing to recall, to which Officer Mullikin stated that he believed that Chairman Patrick had covered all the board’s comments.

Chairman Patrick verified with the board that all have received and reviewed the meeting minutes from the March 20<sup>th</sup>, 2024, regular Planning Board meeting.

A motion to approve the March 20<sup>th</sup>, 2024, meeting minutes as written was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

#### PUBLIC HEARING– MOYER ROAD/DUTCH STREET ROAD MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Town of Mount Morris on Moyer Road and Dutch Street Road.

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No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked the applicant, Mr. Benjamin Borntreger if he’d like to give an overview of the proposed subdivision. Mr. Borntreger stated that he is hoping to subdivide 3 acres, including a house and barn from a 33-acre property. Town Code Enforcement Officer Shawn Grasby added that Kevin O’Donahue completed the land survey and provided the maps and that the three acres required of Town subdivisions are included in the proposal.

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Chairman Jim Patrick opened the floor for discussion from anyone in attendance who wished to speak in favor or in opposition to the proposed subdivision.

April 17<sup>th</sup>, 2024, at 6:30pm | 103 Main Street, Mount Morris NY

Community member Cathie Gehrig was granted permission to speak. Ms. Gehrig requested an explanation from Town Code Enforcement Officer Shawn Grasby regarding the three acres listed on the survey as it appears that the survey was not measured from the property lines but from the centerline of the road. Officer Grasby replied that it does look like the map is drawn from the centerline of the road and stated that this is what determines what a person's property is. Ms. Gehrig stated that the three acres should consist of usable land to allow for soil permeability, septic systems, and well proximities. Ms. Gehrig added that any land between the usable property and the centerline of the road is not assessable because it is not usable. Ms. Gehrig added that the 2.4 acres listed on the survey would include the usable areas of the proposed subdivision, and the 3 acres listed on the survey would include .6 acres of non-usable land. Ms. Gehrig stated that she would ask that the board consider usable space, and that if the board were to approve the proposed subdivision the resulting parcel would be a substandard lot based on Town Code and any changes moving forward would require area variances. Ms. Gehrig concluded that she is sure that the board is aware that it is illegal to create a non-conforming lot, and that she believes that .6 acres of unusable space seems to be a lot of wasted space for a 3-acre lot. Ms. Gehrig stated that she also checked around with neighboring municipalities and wasn't able to find much of a consensus regarding measuring from the centerline of the road but stated that she wouldn't think that there is much of a hardship from the applicant as there are an additional 30 acres neighboring the proposed subdivision to add to the smaller parcel. Mr. Gehrig closed stated that if there are any questions regarding the 3-acre interpretation that questions should be sent to the Joint Mount Morris Town and Village Zoning Board of Appeals as they are responsible for local interpretation.

Chairman Jim Patrick asked if any additional community member wished to speak. Community member Chad Woodworth asked if many other subdivisions that have been presented before the board show surveys that measure from the centerline of the road. Chairman Jim Patrick stated that he couldn't speak to that without reviewing previous surveys, but stated that based off of his own surveys he believes that it is fairly typical to measure based off of the centerlines of the road. Mr. Woodworth stated that his own property shows what he actually gets taxed upon as the acreage, but that the pins are reflected on his survey.

Community member Cathie Gehrig asked if Town Code Enforcement Officer Shawn Grasby could answer Chad Woodworth's question, to which Chairman Jim Patrick stated that the questions should be directed at the board as a whole and not to the Code Enforcement Officer. Ms. Gehrig asked the question again but directed at the board, to which Chairman Patrick asked Officer Grasby if he's aware of how the previous land surveys included with subdivision applications have reflected the calculated acreage, to which Officer Grasby answered that all surveys that he knows of with properties located on county roads are measured from the centerline of the road. Ms. Gehrig asked if this includes four-rod roads, to which Chairman Patrick said yes. Ms. Gehrig stated that she believed that the board is setting a serious precedent. Chairman Patrick disagreed and stated that the land included on the proposed subdivision has already been developed and stated that he would otherwise agree with Ms. Gehrig if the land had not already been developed. Ms. Gehrig asked if she wished to circumvent the three-acre requirement in the Town Code if this is how she'd go about it. Chairman Patrick responded that he isn't there to advise on hypotheticals and that he focused on the application in front of him.

Chairman Jim Patrick asked if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Cathie Gehrig added that she is not speaking in opposition to the particular subdivision application, but that she is in opposition to the non-conformity to Town Code.

Chairman Jim Patrick asked Town Code Enforcement Officer Shawn Grasby if he had any additional comments regarding Mr. Borntreger's application, to which Officer Grasby stated that he didn't have anything else to add other than stating that O'Donahue has submitted many detailed surveys to the board previously without issue. Board member Larry Woodworth asked what would happen if a property owner took a plow and started digging up the part of the road that a land survey shows that a property owner owns, to which Town Code Enforcement Officer Shawn Grasby replied that the Town and/or County would still have an easement on that piece of land so digging would not be permitted unless the road and accompanying easement were formally abandoned by the Town and/or County. Larry Woodworth stated that this could lead to a property owner paying taxes on property that they cannot use or alter. Officer Grasby stated that he isn't sure as to how that works.

Chairman Jim Patrick asked for additional questions from the board. Larry Woodworth stated that he thinks that the board should get a qualification from the county to determine where the property lines are located. Chairman Patrick stated that the application and survey meet the intent of the code and asked where the Town stood on moving towards smaller lot requirements within the Town Code. Community

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member Cathie Gehrig stated that that recommendation did not pass, and that the public hearing for it packed the Town Hall with community members who spoke in opposition to it.

Community member Chad Woodworth asked that if the subdivision application were to be approved if the property owner would be paying taxes on 2.581 acres or 3 acres, to which Chairman Jim Patrick stated that he did not know. Mr. Woodworth stated that if the property owner is only being taxed on 2.581 acres that the parcel is not meeting the minimum acreage set forth within the Town Code and should not be considered a 3-acre lot. Chairman Jim Patrick asked in practical terms who would be hurt by this subdivision being approved, to which Mr. Woodworth responded that the precedent set by lax approaches to Town Code allows for more and more differentiations from the requirements set forth. Community member Cathie Gehrig stated that she believes that the planning board needs to think about the ramifications that setting such a precedent would have on our community years into the future.

Chairman Jim Patrick asked once more if any others in attendance wished to speak in favor or in opposition to the proposed subdivision. Community member Kevin Fahey stated as the Mount Morris Zoning Board of Appeals Chairman that he approaches every application separately and doesn't necessarily agree with the concerns of a precedent being set by one application being approved. Mr. Fahey stated that additional applicants may come forward who also wish to subdivide less than exactly three acres from a parcel, but that approving one such application doesn't automatically mean that any such applications in the future would also be approved. Board member Larry Woodworth disagreed with this concept and stated that the Code should be applied as written each time.

Town Code Enforcement Officer Shawn Grasby stated that he did have a meeting with the applicant for this subdivision and that he stated what the requirements were. Officer Grasby added that he knows that his code book states to measure from the centerline of the road and stated that he might want to reach out to the Town Attorney to ask where the lines should be measured from.

Chairman Jim Patrick asked the applicant if he would mind adding approximately half an acre to the smaller parcel, to which Mr. Borntreger stated that he would not object to doing so. Mr. Borntreger added that he would have done so from the start if he'd only been counseled to do so.

Community member Cathie Gehrig stated that she is attending this meeting because she'd received several calls from community members regarding the acreage listed in the parcel as it was reflected first as 2.4 acres, and then 2.6 acres.

Town Code Enforcement Officer Shawn Grasby explained that the proposed parcels included on the subdivision application meet all requirements per Town Code and are located in a low-density residential district.

A motion to keep the public hearing open until the next regularly scheduled Joint Town and Village Planning Board meeting on May 15<sup>th</sup>, 2024 at 6:30pm pending clarification from the Town Attorney regarding where the lot lines should be measured from was introduced by introduced by Jim Patrick and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Board member Phil Race offered apologies on behalf of the board to the applicant.

#### PUBLIC HEARING— DIO LANE MINOR SUBDIVISION

Chairman Jim Patrick began discussion of minor subdivision application for a parcel in the Village of Mount Morris on Dio Lane.

A motion to open the public hearing on Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Joel Clester and seconded by Phil Race, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

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Chairman Jim Patrick asked the applicant, Kevin Fahey, if there was anything that he would like to add. Mr. Fahey stated that Richard Dioguardi is hoping to lessen his tax burden by extending the subdivided acreage to him, and that Mr. Fahey has explained that this will likely not be the case unless significant frontage is taken away from the primary parcel. Chairman Patrick asked if Mr. Fahey was able to locate the sewer on his lot from the discussions started at last month's planning board meeting, to which Mr. Fahey stated that he could not. Mr. Fahey added that he also could not find many of the manhole covers shown on the survey.

Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin if he had anything to add. Officer Mullikin stated that nothing has changed from last month, and that the proposed subdivision conforms to Village Code as the subdivision is going to be added to Mr. Fahey's existing parcel.

Community member Cathie Gehrig asked if there are provisions within Village Code that allow for lot line adjustments, to which Chairman Jim Patrick stated that he doesn't believe that there are. Ms. Gehrig stated that she thought that one of Chairman Patrick's first meetings as Chairman included a lot line adjustment for a property on Erie Street. Chairman Patrick stated that he believed that this was a subdivision and not a lot line adjustment. Ms. Gehrig asked if the Planning Board will review and approve lot line adjustments, to which Chairman Patrick stated that he'd like to but that he didn't believe that the Village Code allows for such applications.

Chairman Jim Patrick asked Kevin Fahey how familiar he was with site plan reviews contained within Village Code. Community member Cathie Gehrig stated that Chairman Patrick had every opportunity to change such issues withing the code when he sat on the Comprehensive Plan Committee. Chairman Patrick stated that the Comprehensive Plan was not a code change, and that it simply guides code changes.

Chairman Jim Patrick asked if anyone in attendance wished to speak in favor or opposition to Mr. Fahey's application for subdivision. None in attendance responded.

A motion to set the close the public hearing for Kevin Fahey's application for subdivision at 10 Dio Lane in the Village of Mount Morris was introduced by Phil Race and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

Chairman Jim Patrick asked if there were any questions or comments from the board regarding the SEQR for Mr. Fahey's application, to which there were none.

A motion to issue a negative declaration on the SEQR attached to Mr. Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Phil Race and seconded by Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

A motion to approve Kevin Fahey's minor subdivision application for 10 Dio Lane in Mount Morris, Tax ID 106.17-1-7.1, was introduced by Larry Woodworth and seconded by Joel Clester, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## OTHER BUSINESS

Chairman Jim Patrick stated that there is a Fire Department project on Route 408 coming up for discussion, and that the meeting may require a change of venue to allow for a larger capacity. Chairman Patrick added that Village Code Enforcement Officer Mark Mullikin is still working on the paperwork, but that a special use permit and site plan review will be discussed. Chairman Patrick also added that there is no set date in mind yet. Chairman Patrick asked Village Code Enforcement Officer Mark Mullikin to elaborate on the current status of the project.

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Village Code Enforcement Officer Mark Mullikin stated that he has referred prints to the Village Engineer but has not received work back yet. Officer Mullikin believed that the preliminary review may come to the Planning Board as soon as next month but that he couldn't be sure.

Chairman Jim Patrick stated that Village Code Enforcement Officer Mark Mullikin has also asked the board to review the County Planning Board notes regarding the proposed Village Solar Laws. Officer Mullikin gave an overview of the advisory comments and stated that the Village Attorney has also received a copy. Chairman Patrick asked if the Planning Board needed to do anything further, to which Officer Mullikin stated that he just wanted to keep the board updated during the process. Board member Larry Woodworth had questions related to a section of the advisory comments that highlighted road degradation. Officer Mullikin explained that the County Planning Board wanted to ensure that the proposed Village law included verbiage that stated that overuse and degradation of roads related to large-scale solar projects be covered by the companies responsible.

Community member Kevin Fahey stated that he serves as one of the Mount Morris representatives on the County Planning Board and was very pleased with the proposed Village Solar Law and explained the organization of the advisory comments.

Chairman Jim Patrick wanted to note that the Planning Board was not responsible for approving the proposed Village Solar Law and that they have been asked to comment only.

Chairman Jim Patrick asked Secretary Kaylee Leone if she had received the municipal agreements between the Town and Village of Mount Morris and the County Planning Board, to which Secretary Leone replied that she sent the documents via email to the board members but can supply paper copies as needed.

A motion to approve the Joint Town and Village Planning Board comments on the proposed Village Solar Law was introduced by Jim Patrick and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried.

## ADJOURNMENT

A motion to adjourn and set the next Planning Board meeting for Wednesday, May 15<sup>th</sup>, 2024, was introduced by Phil Race and seconded Larry Woodworth, and was voted on by members as follows:

Aye: 4 (Clester, Patrick, Race, Woodworth)

No: 0

Abstain: 0

The motion was carried, and the meeting was adjourned at 7:27pm.

Respectfully submitted,

Kaylee R. Leone  
Deputy Town Clerk/Town Planning Board Secretary