

Wayne NY Planning Board Meeting - Detailed Summary

Meeting Overview

The Wayne Town Planning Board approved a site plan application from Neil and Lori Fagan to replace their existing house with a smaller structure, moving toward compliance with town regulations. They also approved a subdivision application from Melvin Goldman to create two 6-acre lots from his 35-acre vineyard property. The board discussed a preliminary subdivision application from James Duncan, which will be reviewed at the next meeting pending final survey completion. The conversation ended with a detailed discussion about Current Land Use Regulations and Comprehensive Plan in relation to considering changes to allow for accessory dwelling unit (ADU) regulations, where Mr. Jaynes explained that while current town code doesn't allow ADUs, adding such provisions would require significant research by the board, legal work, budget allocation, and comprehensive plan updates. Mr. Witkowski shared the details of the processes that would be needed. He also shared his research and that the Town of Milo's ADU law may serve as a reference point for potential future consideration. Board members were charged with undertaking their own research to learn more about ADU zoning and other townships' experiences and laws.

Planning Board Members Present:

- Geoff Terwilliger (Chairman)
- Stan Witkowski
- Kurt Falvey
- Joyce Plaisted
- Andy Williams
- Jesse Jaynes (Code Enforcement Officer)
- Amy Gush (Administrative support)

Excused/Absent:

- Russ Miller (excused)
- Nancy Gable (absent)
- Scott Hendershot (absent)
- Shona Freeman (absent)

Applicants/Public:

- Neil and Lori Fagan (via Zoom from Florida/Barrington)
- Melvin Goldman (in person)
- James Duncan (in person)
- Siri DeForest-Reynolds (via Zoom, left early)
- Marcia Drake, _____, _____

1. Neil and Lori Fagan - Site Plan Application (NO5v26)

Property: Tax ID # 064.00-01-033.114, 14968 State Rt. 54, LSR-2 District

Project Details:

- Demolishing existing 100-year-old fish camp house in August
- Replacing with smaller prefabricated structure from Albany (arriving fall)
- Reducing overall footprint - moving toward conformity with regulations
- Property located on private Sackett Road (Crystal Beach Road area)

Site Improvements:

- Moving vehicle parking to current garage location
- Converting existing blacktop to pervious surfaces (cut gravel and grass)
- Installing drive able septic system on lot across Sackett Road
- Enhanced landscaping on both lakefront and backside

Regulatory Status:

- Previously obtained side setback variance from Zoning Board of Appeals
- Classified as Type 2 action - SEQR waived
- Public Comment Opened and Closed _____, No public comments received
- Application approved 7-0

2. Melvin Goldman - Vineyard Subdivision (N04V26)

Property: Tax ID # 105.00-03-026.120, adjoining Coryell Road, HC-1 District

Subdivision Details:

- Creating two parcels from 33.1-acre vineyard property:
 - Parcel 1: 6.517 acres (forested area at southern end, intended for sale)
 - Parcel 3: 6.085 acres (forested area, future consideration)
- Parcel 2: **3.3 acres** (remains part of existing vineyard, includes shed and vineyard)
- Total subdivision: 12.602 acres
- Division follows natural gully between parcels

SEQR Review Process:

Jeff Terwilliger conducted comprehensive environmental review, confirming:

- No wetlands, floodplains, or threatened species impacts
- No historic sites or archaeological concerns
- No infrastructure, traffic, or utility impacts
- Consistent with zoning regulations and comprehensive plan
- Board unanimously issued negative declaration under SEQR

Correction Made:

- Initial application stated "6 acres" - corrected to "12.602 acres" to reflect both parcels

- Goldman initialed the correction

Public Comment:

- Marianne Devries (Coryell Road neighbor) called with no objections
- Marcia Drake attended, initially concerned about flags near her property but confirmed satisfied after clarification

Approval:

- Planning Board designated as lead agency
- Subdivision approved as submitted (unanimous vote)
- Goldman to deliver 1 copy to Steuben County; town retains 1 copy; remainder for distribution

3. James Duncan - Preliminary Subdivision Review (N06V26)

Property: Tax ID # 105.00-03-041.000, 8783 Grove Springs Rd, HC-1 District

Project Details:

- Creating 5-acre parcel from larger property
- 215 feet of road frontage on Grove Springs Road
- Flat terrain with no culverts or ravines

Survey Status:

- Entire property surveyed in 2018
- Surveyor indicated subdivision would be "rather simple" - just setting 3 more pins
- Duncan meeting with surveyors following day

Timeline and Process:

- Final survey/plat needed by Tuesday of following week for June meeting agenda
- If survey not completed, application still placed on June agenda with understanding final plat must be presented at meeting
- Minimum 4 copies of final subdivision maps required

Regulatory Notes:

- Steuben County Planning notification not required due to inter-municipal agreement
- Existing driveway and culvert in place
- Property owner may install new culvert to prevent tractor damage

Discussion

Accessory Dwelling Unit (ADU) Discussion

Background and Context

Mr. DeForest has raised issue. Did not attend. (represented by daughter Siri DeForest-Reynolds, who left meeting early)

Original Request:

- Application to Zoning Board of Appeals for accessory dwelling unit
- Proposed: 1,000 square foot dwelling unit with full kitchen
- Structure includes 2-car garage with living space
- 8-acre property on State Route 54
- Intent: Accommodate daughter while DeForest lives in separate house on same property
- ZBA denied application - current town code does not allow ADUs

Unique Complication:

- DeForest wants to build accessory structure **first** on vacant land
- By definition, ADU must be accessory to existing primary dwelling
- Building on vacant land would make it primary dwelling unit, not accessory
- Even if ADU provisions added, DeForest's specific proposal would not qualify

Current Town Accommodations

Mr. Jaynes explained to those present existing land use regulations already provide several options (all declined by DeForest):

1. **500 Square Feet Additional Living Space:**
 - Can include bedroom, bathroom, other amenities
 - No kitchen facilities allowed
2. **Breezeway Connection:**
 - 30-foot breezeway connects effectively separate living spaces
 - Still considered one dwelling unit
 - Provides substantial separation while maintaining compliance
3. **Multi-Unit Dwelling Option:**
 - Allows separation between units within single structure
 - Half garage, half living space configuration possible
4. **Standard Additions:**
 - Homeowners can add living space for elderly or disabled family members
 - Part of primary residence
 - Must conform to building code

Requirements to Add ADU Provisions

Estimated Timeline: 1-2 years

Estimated Legal Costs: \$20,000-\$25,000+ (potentially more)

Budget Consideration: May not occur in current fiscal year

Required Process Steps:

1. **Board Research Phase:**
 - Members assigned to study ADU regulations in other communities
 - Review existing implementations and outcomes
2. **Legal Drafting:**
 - Attorney drafts new ADU provisions
 - Must integrate seamlessly into existing land use regulations
 - Cannot simply "plug in" one regulation - must review entire LUR for references and impacts
3. **Comprehensive Plan Update:**
 - Comprehensive plan must align with new ADU provisions
 - Attorney review required to ensure comp plan and LUR match
 - Misalignment creates legal vulnerability (lawsuits)
 - Most time-consuming and expensive component
4. **SEQR Environmental Review:**
 - Complete State Environmental Quality Review
 - Assess environmental impacts
5. **Public Hearings:**
 - Hold public comment sessions
 - Address community concerns
6. **State and County Review:**
 - Submit for regulatory review and approval
 - Await feedback and make necessary adjustments
7. **Budget Allocation:**
 - Secure funding through town budget process
 - May require waiting for next fiscal year

Reference: Town of Milo ADU Regulations

Mr. Witkowski researched surrounding towns:

- **Jerusalem: Torrey: Hector: no ADU**
- **Town of Milo:** Recently adopted ADU regulations

Milo's ADU Requirements:

- Maximum 1,500 square feet (board members expressed concern this may be too generous)
- Deed restrictions required
- Property owner must maintain residency in primary dwelling
- Units cannot be sold separately

- Could serve as template if Wayne pursues ADU regulations

Enforcement and Regulatory Concerns

Residency Requirement:

- Property owner must maintain primary residence on parcel
- If property in trust, principal person in trust must reside there
- ADUs cannot be sold separately from primary dwelling
- Cannot be used as standalone rental units
- Restriction remains even after original occupant (e.g., elderly parent) dies

Short-Term Rental Risk:

- Without strict enforcement, ADUs could become Airbnb units rather than family housing
- Without strict enforcement, ADUs could become Airbnb units; Hammondsport example: 30-40% of village now short-term rentals, exacerbating affordable housing shortage

Spot Zoning Concerns:

- Difficult to limit ADUs geographically without creating legal challenges
- Cannot restrict by age (e.g., "65 and over" would be discriminatory)
- Lakefront parcels may lack sufficient footprint for ADUs
- If allowed for one, must be available to all qualifying properties

Pre-Existing Non-Conforming Structures:

- Many lakefront properties already have multiple dwellings predating land use regulations
- These are "grandfathered" as pre-existing, non-conforming
- New ADU provisions would not legitimize these or allow similar new construction

Size Considerations:

- Most ADU regulations nationwide limit to approximately 500 square feet (tiny home size)
- Sufficient for bedroom, bathroom, living area - accomplishes intended purpose
- Milo's 1,500 square feet considered overly generous by Wayne board
- Larger sizes increase risk of rental use rather than family accommodation

Historical Context

Kurt and Wayne recalled original land use regulation development:

Board deliberately decided existing accommodations provided sufficient flexibility for housing elderly or disabled relatives

- Decision made to avoid enforcement challenges
- Concern about rental property expansion disguised as "accessory" units

Community Support

Petition Circulation:

Mr. Falvey heard rumor of petition with 100 signatures supporting ADU allowances being circulated

Unclear what residents were told

- Unclear if all signatories are town residents
- Relevance? as Town LUR review processes do not recognize "petitions" in formal review process
- Siri DeForest-Reynolds (representing her father) not present for this discussion

Preliminary Unofficial Comparative Analysis

Lake frontage reduction precedent: When minimum lake frontage reduced from 100 feet to 50 feet, resulted in overcrowding

- Current problems: Septic issues, erosion, density concerns
- Board expressed concern ADUs could create similar long-term problems
- Question raised: "Who the heck thought this was a good idea?" - concern about future regret. **No Formal Action Taken**

Board Members Charged With:

- Conducting independent research on ADU regulations in other municipalities
- Reviewing Town of Milo's ADU law as reference point
- Considering enforcement mechanisms and potential unintended consequences
- Topic to be revisited at future meeting

Key Takeaways:

- Even if ADU provisions added, DeForest's specific proposal (building accessory structure first on vacant land) would not qualify
- Existing land use regulations already provide multiple accommodation options
- Adding ADU provisions would require substantial financial investment (\$20,000-\$25,000+)
- Process would take 1-2 years minimum
- Enforcement concerns about short-term rentals and affordable housing impacts
- Board expressed belief current regulations provide sufficient flexibility for legitimate family housing needs

exact date, May 4