

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, New York 10924
March 20, 2008

MEMBERS PRESENT

Reynell Andrews
Lee Bergus
Mary Israelski
John Lupinski
Ralph Huddleston
Ray Myruski
Absent: Susan Cleaver

ALSO PRESENT

Neal Halloran, Building Inspector
Ed Garling, Planner
Dennis Lindsay, Engineer
Richard Golden, Attorney
Kelly Naughton, Attorney

CALL TO ORDER

Chair Ralph Huddleston called the regular meeting of the Town of Goshen Planning Board to order at 7:30 p.m. at Town Hall.

MINUTES

The minutes of the Town of Goshen Planning Board's March 6, 2008 meeting were approved with corrections.

Stewart's – 12-1-8.31 – Located on Rte 17M in the HC zone with an AQ6 overlay. Site plan approval for an additional gas dispensing island. Lead Agency.

Mr. Halloran said the applicant is currently in front of the ZBA for a variance and the ZBA has sent notice of their intent to be the lead agency. The question is whether the PB wants to be the lead agency.

Mr. Golden said the ZBA rarely does any substantive SEQRA analysis, that almost everything they do is a Type 2 action so this would be fairly new ground for them to go forward. They can't act until SEQRA is done, he said, and they put out the Notice of Intent because they are required to do so. If the PB objects to their being lead agency, they will happily bow to its determination to take the lead agency on this application, Mr. Golden said. It will stop their deliberation on the variance until SEQRA is completed by the PB. Mr. Huddleston said that the PB should take lead agency because it sounds like there will be site plan issues. PB members agreed to object to the ZBA as lead agent.

Tobias (a.k.a. Rolling Knoll) – 5-2-19.2 – 33.9666+ acres, located on Phillipsburg Rd in a RU zone with an AQ6 & stream corridor overlay. Set Bond amount for street trees.

Mr. Halloran said that at the last meeting the PB voted on the bond for street trees for Phase 2. Now the PB has to set a bond amount for trees for Phase 3 (the two lot subdivision). Mr. Lindsay said the developer did not submit a bond estimate. He said based on 1040 ft of frontage, and the Code requirement of a tree every 40 ft., he estimates \$8,125 is needed for street trees.

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Mr. Myruski, the Planning Board of the Town of Goshen establishes a bond amount of \$8,125 for street trees on Phase 3 of the Tobias application. Passed unanimously. (Ms. Israelski had previously recused herself from discussion of the application)

Mr. Andrews	Aye	Ms. Israelski	Abstain
Mr. Bergus	Aye	Mr. Lupinski	Aye
Mr. Huddleston	Aye	Mr. Myruski	Aye

PUBLIC HEARINGS

Taylor – 20-2-17 – 2.124 +/- acres, located at 9 Industrial Drive in a CO zone with an AQ 3 overlay. Expansion of existing metal building.

Present for applicant: Patrick Hutton

Mr. Hutton said the existing property has 2500 sq. ft of metal shop and an existing warehouse of 4800 sq. ft. The applicant is proposing to add another 1,800 sq. ft to the shop and add a 450 sq. ft. office at the front of the building. There will be trees planted to screen along the front and along the wetlands area, he said.

Mr. Huddleston opened the public hearing to comment. There was none. He asked for comments from the professionals.

Mr. Lindsay said the only issue was that coverage needs to be calculated based upon the Code requirement and added on the plan. He said it stands at approximately 30%. He said there is no outside storage and recommended that the PB include that in its action so it is clear that the applicant had an opportunity to present that, they didn't need it, and it is not there. He said that the applicant's well supply should be adequate based upon their representation, but the applicant should put something in the record other than it is just a low water use. Buildings of this large size could change use and could have many more employees, Mr. Lindsay said, and recommended that the PB's resolution state that the water supply and sewer have been analyzed for this particular use and in this capacity, and should they come in for a future change of use, it should be reviewed for water and sewer at that time. He also said that he has asked for some modification of the storm water control to provide water quality control.

Mr. Huddleston asked Mr. Golden to put a condition in the resolution regarding receipt of the DEC issued fresh water permit.

Mr. Golden said that if this owner has no use for the drainage easement, then it should be abandoned in favor of the Town.

Mr. Lindsay said that the septic system is designed for 250 gallons a day and that based on normal business use of 10-15 gallons per day, that the system would allow for about 13 employees. Mr. Golden advised that this should be included as a note on the plan

Mr. Garling said that a waiver of the 8 on 12 roof pitch needs to be provided, and that the lighting should be on a fixed arm. He said the easement on the left side of the building should be shown on the plan. Mr. Hutton agreed that drainage detail needs to be shown as well.

Both Mr. Golden and Mr. Huddleston said they think the applicant should come back to the PB after the changes have been made.

VOTE BY PROPER MOTION, made by Ms. Israelski, seconded by Mr. Myruski, the Planning Board of the Town of Goshen hereby closes the public hearing on the application of Taylor. Passed unanimously.

Mr. Andrews	Aye	Ms. Israelski	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Mr. Huddleston	Aye	Mr. Myruski	Aye

Thompson – 8-1-7.22 48.2 +/- acres, 2 lot small scale subdivision located on Craigville Rd in the RU zone with an AQ6, scenic road corridor and stream & reservoir overlays. Proposed 2 lot small scale subdivision.

Present for the applicant: George Langberg

Mr. Langberg described the project as consisting of 42 acres with a new lot created for the construction of a new house, and the existing house sitting on over 6 acres. The rest of the property can't be subdivided due to wetlands, he said. He said the applicant is waiting for the DEC validation from their wetlands expert.

Mr. Lindsay said he had looked at the water and sewer systems and new septic system and did perc tests with the applicant. They passed with good results in close proximity to poor results, so he recommends that when the bed is excavated that the Building

Inspector or Town engineer be there to inspect the bed to make sure “that we get what we expect” and that the soil is acceptable.

He said the sight distance issue is the large issue and said the County asked for stopping sight distances and turning site distances from the driveway. The applicant provided them but didn't comply with one of the requirements and the County eventually approved it as far as where the driveway is located. Mr. Lindsay said that his perception, after going out to look, is that moving it toward the east will improve the sight distance almost foot for foot and so he recommends pushing the driveway further to the east. Mr. Langberg said that the only place to go east is into the wetland buffer. Mr. Golden suggested that the applicant talk to the DEC about obtaining a permit from them. Mr. Huddleston added that because it involves a safety consideration, he thinks the DEC will give serious consideration to allowing the applicant to enter the DEC buffer. Mr. Lindsay said that moving it east into the buffer will add 125 ft. to the distance, which is closer to the standard. Mr. Huddleston asked the applicant to look into this.

Mr. Garling said that he concurs with the recommendation about the sight distances. He also said that a note on the plat saying that “no further subdivision allowed without PB approval” is a meaningless note and that if the applicant is not going to further subdivide the property then the applicant should add a note that “there shall be no further subdivision of this property.”

Mr. Golden stated that because the property is in the scenic road corridor, that the PB must ensure that certain standards are met, in 97-29 (F – J) and that the PB should weigh in on those provisions as to whether the application meets all of those requirements.

Mr. Huddleston asked for public comment:

Debbie Corr, a neighboring property owner, said she is concerned with the siltation in the Otterkill, saying there isn't proper storm drain management or mediation and stating that there has been a lot of damage done to the Otterkill from all of the previous development in the Town. She asked if the NYS Ag and Markets had been approached on this since it is in a NYS Agriculture District. She asked if there is some type of approval from them since farm land is being destroyed here, one of her biggest concerns, and asked if the DEC has been there, delineating the vegetation on the property. Ms. Corr said that 60 to 70 percent of the well tests are showing e-coli “because all of these septic systems are allowed in these mediocre areas and then it gets into the ground water and the neighbor's well.” She added that she is concerned about putting a house with septic that close to the wetlands.

Jerry Boss of 223 Craigville Rd. said he is concerned with traffic safety and the number of accidents that have occurred. He talked about the sight distances and recommended a speed survey be performed.

Mr. Boss asked if there is any oversight necessary by the US Corps of Engineers due to the large wetlands. Mr. Huddleston said the wetlands are being avoided and that as long as the applicant stays out of the Corps of Engineers' wetlands, they are out of the federal jurisdiction. Mr. Boss spoke about the classification of the Otterkill and Black Meadow as "environmentally challenged rivers." He said he doesn't want to infringe upon his neighbor's right to build a house, but wants it done right. He said that input should be requested from Chief of Police Marsh about traffic safety and the number of accidents.

Eddie Johnson said it is important to be careful with the driveway entrance because of the traffic and accidents.

Jeannie Ryan of Gate School House Rd. said that traffic is a problem and she is concerned about children having to cross the street to get the school bus.

The PB discussed having a note on the plan that states no further subdivision will be allowed. Mr. Golden said that normally there are not conditions and notes saying no further subdivision unless it is specifically dictated by the site, because of the potential impact to the environment. If the PB has made that determination under its SEQRA determination, and if it believes that under these circumstances there ought not to be any further subdivision, then the PB can make reference to that fact as owing to the site configuration, or other element, so that future Planning Boards will know why that determination was made, he said.

Mr. Huddleston suggested putting it in the conservation easement. Mr. Golden agreed that if the PB thinks it is appropriate and the applicant has no objection, it could be put in the conservation easement. Mr. Langberg said he didn't think the applicant would have an objection.

Mr. Huddleston said he didn't want to close the public hearing and will put it on the agenda for the April 17th meeting.

Gilmore – 12-1-51 - .321 +/- acres, located at 2657 Rte 17M in the CO zone with an AQ6 overlay. Possible final approval.

Present for the applicant:

Patrick Hutton

Mr. Hutton said the application is for a small, 1.5 story office building. He said the existing brick structure will be removed. He said the plan has been completed, that the lighting was changed and the Route 17M entrance has been worked out with the DOT.

Mr. Lindsay said that there is 40% impervious surface, so the applicant can't expand beyond their proposal. He said he needs more on the water supply, but that it is a small building. The DOT has reserved a right in their approval to make modifications in the entrance should this cause a problem, he said, but he believes they have worked it out so that it will drain to the west to an existing swale by Route 17M. He said the only issue remaining is that he would prefer crown sections everywhere because of snow melting and creating an ice sheen. He said the septic with an aerobic system needs to be shown on the plans.

Mr. Bergus said there should be a note on the waste water detail that there should be a locking cover and on the sewage pump, evaluation suggests a weep hole.

Mr. Golden said that the 239 was received from the County indicating it is a local determination. He said that it is a Type 2 action and could be voted upon tonight. He said that those conditions that Mr. Lindsay thinks should be included from his memo will be among the conditions.

Mr. Golden read a proposed resolution of approval for site plan and special permit for Gilmore Properties, listing the following specific conditions:

1. The lights attached to the structure in the front and rear must be "night sky friendly." The applicant must use outdoor lighting in the parking lot, and the light levels must be limited to 0.1 foot candles at the property line so no offsite glare will result. The fixtures should meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting.
2. Prior to the signing of the plan, the applicant must include the following note on the plans, as per the NYS Department of Transportation, "If the sheet flow design of the drainage causes ponding of water in the driveway or tracking of water onto Route 17M, thereby creating a hazardous condition, the owner will be required to remediate the problem by providing additional drainage features (trench drain, drainage structures, etc.)."
3. Prior to the signing of the plan, the applicant must correct the parking calculation included on the plans. Currently it uses one space per three hundred square feet, and it should be three spaces per one thousand square feet.

And the following General Conditions:

1. This Resolution of Approval is further conditioned upon all other approvals that are needed by operation of federal, state or local laws and regulations, whether or not noted above in the Specific Conditions of this Resolution, including, but not limited to the United States Army Corps of Engineers, NYS Department of

Environmental Conservation, Orange County Department of Health and the Town of Goshen Town Board.

2. No disturbance of the parcel's property is authorized by this Resolution outside of the limits of disturbance noted on the approved plans noted above.
3. No deviation from the plans, reports or other documents that form the basis for this approval are effective unless and until an amendment to this Resolution is secured from the Planning Board in writing. The Town may stop work on this project, and/or revoke a building permit, and/or withhold a certificate of occupancy, and/or seek other additional relief as authorized by law, if any term or condition of this Resolution is violated.
4. All fees regarding this application must be paid in full, including all application fees, other fees required by the Town Code and the fees of the Planning Board consultants, including all engineering, planning and legal fees. All bonds or other security required by this Resolution shall be submitted in a timely manner as required by the Town Code or Building Inspector. No building permit may be issued by the Building Inspector unless and until such fees have been paid in full and such bonds or other security shall have been filed with the Town.
5. No changes, erasures, modifications, or revisions to the plans shall be made after approval has been given by the Planning Board, unless the plan is first resubmitted to the Planning Board and the Planning Board approves such modifications.
6. The applicant must submit to the Planning Board, within 6 months of the signing of the Resolution granting approval, multiple copies of the site plan for stamping and signing. This Conditional Approval shall expire 18 months after the date of the Resolution granting such approval unless the requirements have been certified as completed within that time, or unless such time is extended by the Planning Board in accordance with the Town Code.

VOTE BY PROPER MOTION, made by Ms. Israelski, seconded by Mr. Myruski, the Planning Board of the Town of Goshen hereby approves the site plan and special permit for Gilmore Properties conditioned upon those conditions discussed at its March 20th meeting. Passed unanimously.

Mr. Andrews	Aye	Ms. Israelski	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Mr. Huddleston	Aye	Mr. Myruski	Aye

Dickerson – 13-1-92.90 acres, 21 lot subdivision located on Dunmore Lane, Gibson Rd and Route 17A in the RU zone with an AQ3, AQ6 and scenic road corridor overlay. 2 lot subdivision – Continued discussion.

Present for the applicant:

Douglas Jones, Esq.

Mr. Jones explained to members who were not present at the last meeting, that initially there was a major subdivision application which was withdrawn. An application was then made for a minor subdivision to carve off from the master parcel a 9 acre parcel (lots 1 & 2) consisting of an existing house with 3.6 acres, and the balance to be put into a conservation easement to count for open space. The minor subdivision was approved Dec. 1, 2005, Mr. Jones said and the applicant recently found out that on Nov. 1, 2007 the approval on the minor subdivision application was revoked. Two weeks ago, Mr. Jones said, he came to the PB to ask if there was any way the applicant could have the minor subdivision approved and then proceed with the major subdivision of more than 20 lots, which falls under the present moratorium. He said the applicant wants to have its two-lot subdivision granted so the existing house can be sold to a buyer in the wings. Mr. Jones said he has the impression that the PB sympathizes with the property owner.

Mr. Jones said the approval of the minor subdivision was ultimately revoked because of a delay in agreement of the language in a conservation easement and yet, he said, the minutes of the meeting wherein the subdivision was approved, (12-1-2005) does not include the conservation easement as a condition in the motion of approval. In the discussion reflected in the minutes, it simply states that there will be a restrictive covenant to protect that space. The motion only mentions that it will be conditioned upon the satisfaction of the Town engineer and the comments of Mr. Bergus during the meeting, Mr. Jones said. He stated that he views the conservation easement as not a condition of the PB's approval, but as a self-imposed restriction. He quoted the Town Code saying that upon completion of the requirements, conditional approval of a plat "shall expire 180 days after the date of the resolution unless the requirements have been certified by the PB chair as having been completed at that time." He said that the applicant submitted its final maps within that 180 days, (on May 22, 2006) and that they were presented to the Building Inspector's office for signature and the appropriate checks were submitted. He said that later the applicant found out that the maps were not signed because the language of the conservation easement was not agreed upon.

Mr. Golden replied that this is an approval which had lapsed and no extensions have been requested by applicant, prior to the lapsing.

Mr. Myruski asked if the \$3,000 fee was paid and Mr. Halloran said he will check.

Mr. Golden stated that he thinks that when the motion was made it was anticipated that the covenant would be included within the resolution, even though the motion, as recorded in the minutes, didn't specifically refer to that. But he said, that even putting aside the conservation easement, it was a conditional final approval, conditioned upon the comments of the Town Engineer and PB member Lee Bergus and the payment of fees and the applicant is saying he did all that prior to the time it would have lapsed.

But, Mr. Golden said, the Code states the plat “shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified by the PB chairman as completed within that time.” He said that there has been no certification that those things had been completed in that time, and that while the applicant can ask for an extension if not certified by the PB chair, no one ever asked for an extension. Mr. Golden said he reads the Code as saying that the PB chair has to certify the plat within the 180 days, but he said that is up to the Building Inspector’s interpretation.

Mr. Jones said that while he believes the plans were turned in on May 22 and were not signed because the Town was waiting for the conservation easement, he now thinks the conservation easement was never a requirement of the minor subdivision. He said the applicant wants to leave the covenant there and that the language is still before the Town Board for approval. He said the applicant is asking the Town for a modification for the conservation easement, but if it is delaying the approval of the easement, then the applicant doesn’t want the modification.

Mr. Huddleston said he will lean heavily on counsel. “I’m uncomfortable with what we are trying to do here, make the minutes fit our desire while pulling various pieces of the Code out...I’m not going to sign something and date it 2006, that’s not something I’m comfortable with doing.” He said the words from the minutes are inconsistent with the way the PB has handled conservation easements in the past. “We specifically asked for it, I remember that,” Mr. Huddleston said.

Mr. Golden said that if it is the PB’s understanding that despite the fact that it wasn’t included in the minutes of the resolution proper, that the conservation easement was a requirement of the approval, then the PB couldn’t certify that that was done prior to June 1, 2006 and in that occasion, then the approval lapsed. He also said that if the PB feels that the resolution was not conditioned upon a conservation easement, and was something the applicant volunteered, but wasn’t a part of the PB’s decision making and if the PB finds that the requirements were met and the fees paid and the Building Inspector determines that only the requirements have to be completed within the 180 days and not the certification, then it didn’t lapse.

Mr. Huddleston said it is his recollection that it was the PB’s requirement, “that we placed the conservation easement on there and that we wanted it.” He said he would like someone to confirm that with the recorded tape of the meeting. Mr. Halloran said he will attempt to find the tape. Mr. Huddleston also asked the Town Engineer to look at the plat to see if the other requirements, Mr. Bergus’ comments and the Town Engineer’s comments were complied with and incorporated in the plan. “If there is a way to do it, I would like to see this moved forward but I’m not willing to circumvent the Code and the requirements,” he said. The matter will tentatively be put on the agenda for the April 3rd meeting.

OTHER BUSINESS:

Mr. Halloran told the PB it has to make a completeness decision on the Hambletonian Park application at its April 3rd meeting.

ADJOURNMENT: Upon motion made by Ms. Israelski, seconded by Mr. Bergus, the Planning Board of the Town of Goshen adjourned at 9: 40 p.m.

Ralph Huddleston, Chair
Notes prepared by Susan Varden