

APPROVED MINUTES

**Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, NY 10924
May 17, 2007**

MEMBERS PRESENT

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

ALSO PRESENT

Neal Halloran, Bldg. Insp.
Joe Henry, Engineer
Rick Golden, Attorney
Ed Garling, Town Planner
Graham Trelstad, Planner

CALL TO ORDER

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

MINUTES

Upon motion made by Mr. Bergus, seconded by Mr. Myruski, the minutes of the 4-19-07 meeting were approved with amendments, by vote of the Planning Board. Ms. Cleaver abstained from voting as she was not present at the meeting.

Upon motion made by Mr. Myruski, seconded by Ms. Cleaver, the minutes of the 5-3-07 meeting were approved with amendments, with Mr. Huddleston and Ms. Israelski abstaining from the vote as they were not present at the meeting.

PUBLIC HEARING

Sutherland – 4-1-30.1 - .81 +/- acres, located at 9 Ridgeview Terrace in the RU zone with a scenic road corridor overlay. Special use permit for an accessory dwelling.

Mr. Halloran said this was an application for a two-family house. The applicant intends to add less than 1000 sq. feet to the rear of the house and provide a separate entrance. It must share the existing well but can share or add a septic.

Present for the applicant:

Mr. Sutherland

Mr. Henry said he needs to compare the applicant's plan for the septic with the original plans approved by the Health Department. Mr. Sutherland said his engineer found at least 225 feet on each lateral for the septic, and that he has more than he needs at this point. Mr. Halloran said he meets the setback requirements.

Mr. Huddleston opened the public hearing:

Bill Bineman, of 43 Ridge Road, lives directly behind the property, said he had been told six acres is needed to build, while the applicant has .81 acres. He also said everyone else in the area has a one-family, and asked why there is a need for a two-family. Mr. Sutherland replied that he is trying to accommodate his elderly parents who need care. Mr. Halloran said there is another two-family there and Mr. Huddleston remarked that the current code allows Mr. Sutherland to ask to do this.

Frank Guerrero, 7 Ridgeview Terrace, said he is concerned about drainage, saying that when the previous owner put on an addition, it created a lot of drainage problems for him and that he is still having problems because of it.

Mr. Bineman said that his house is behind and further below and that he had to build a big drainage ditch to handle the additional water. He said he didn't want to be inundated and asked if the applicant was planning to build a driveway.

Helen Guerrero, 7 Ridgeview Terrace, asked where the water that comes off the roof from the down spouts is going to go. She said she is also concerned about it being classified as a two-family.

Mr. Henry said he can look at the drainage problems and Mr. Huddleston said there are things that can be done, like rain barrels or a dry well, to take care of it.

Mr. Sutherland said he wanted to assure his neighbors. He said the driveway will not be modified and he doesn't want to modify the drainage. He said his parents requested that they have a separate entrance, for privacy, and said that is the reason he is going through with the process.

Mr. Bineman said he doesn't mind Mr. Sutherland's parents moving in but doesn't want this to be a two-family permanent home.

Mr. Huddleston said the applicant has the right to ask, that it is permitted under the current zoning and Mr. Halloran said that under the code the addition can not exceed 1000 sq. feet.

Mr. Huddleston said the consultants need to review the septic information and look at the drainage calculation to see if the additional impervious surface will create a problem and if so if it will require a dry well or some other measure. Mr. Huddleston said the public hearing will be continued to June 7th. Mr. Henry told the applicant he needs a copy of the original subdivision plans.

AGENDA ITEMS

Schonfeld Subdivision - 11-1-27.2 & 96 – 47.9 acres, 17 lot subdivision, located on 17M in the RU zone with an AQ3 & scenic road corridor overlay. Declare Lead Agency.

Present for the applicant: David Higgins of Lanc & Tully

Mr. Halloran said that the question at the last meeting was whether or not the culdesac could be more than 800 feet and could serve more than eight houses. He said a review of Section 83-13 (i) of the Code states that the maximum number of houses on a culdesac is eight and that it cannot exceed 800 feet. Mr. Halloran said the project as proposed does not meet the requirements and needs a variance from the ZBA or a new plan.

Mr. Higgins said there was an easement created during the original subdivision of the properties calling for a 50 feet right of way and the agreement at the time was that the owner of the driving range would always be granted a 50 foot right of way assess and the owner of the property, this applicant, has the right to re-locate that easement. “We have a meeting scheduled with the owner of the driving range to discuss the location of the easement and based on the topography we think that easement will allow connection through the site into the driving range property and that property has frontage along 17M and Old Chester Rd. so we need to provide access to him as outlined in the original agreement,” Mr. Higgins said. He also said he thought that could solve the 800 feet issue.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Mr. Andrews, the Planning Board of the Town of Goshen declares its intent to be Lead Agency on the application of Schonfeld Subdivision. Passed unanimously.

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

Hambletonian – 8-1-12.221 – 23.4+/- acres, 38 lot subdivision located on Magic Circle Terrace in the HR zone with an AQ6 overlay. Discussion of DEIS completeness and emergency access consideration.

Sean Hoffman of Riddick Associates, serving as Town Engineers on this project, referred to a memorandum from Riddick Associates dated May 10, 2007 stating that the DEIS is incomplete.

Mr. Garling said he also believes the document to be incomplete. He said he doesn't think the construction issue was addressed properly, saying there was no discussion of which way construction traffic would come in, and that after meeting with the applicant on May 10th, is confident the applicant knows what is needed, but hasn't received anything yet. Kristen O'Donnell of Stuart Turner Associates, Planning and Development Consultants said that in regard to Mr. Garling's request for the construction entrance, "it must be noted that the land that we need to cross doesn't belong to the applicant and we need approval from them first."

Huddleston asked for PB comment:

Ms. Israelski said she wants to see amenities for public use included in the document, "to get this kind of density you need to give back to the community," she told the applicant.

Ms. Cleaver said she wants it shown in the document what mitigation could be done if one of the larger wells was out of service.

Mr. Bergus said the storage tank capacity could also be considered as a mitigating measure. He said that the fact that it is in the water district (Hambletonian Water District), there is an obligation to connect to that district. He said the number of homes that are proposed, based on state health guidelines, would not make a viable water system as a stand alone water system so we should be looking at the additional homes in conjunction with the existing water system as the preferred option.

Mr. Matteo of 21 Knapp Terrace told the PB he would like to request a public hearing on the temporary opening of Bridle Path and the emergency access to it.

Mr. Golden explained that the PB is now discussing whether the DEIS is ready for going out to the other involved agencies and the public for comment. When the PB ultimately determines that the DEIS is "complete" for purposes of sending it out to other agencies and the public, everyone will have a chance to look at the document, and the review process will include a public hearing on all aspects of the project including the alternate access issues that have been proposed as Bridle Path and Arthur Place.

Mr. Bergus said the County Health Department should be listed as an “involved agency which requires approvals” on the Executive Summary. He said that there are two locations in the report that give two different student body counts, suggesting the count should be consistent throughout the report as should the basis for the projected water demand, saying that in one part of the report it is based on five individuals per home and in another four individuals. He said the state guidelines are 3.25 people per household.

Traskus (a.k.a. – Elm Hill Farms) 18-1-8.22 – 114.54 acres, 38 lot subdivision located on Arcadia Road in the RU zone with an AQ3 overlay. Discussion of EAF Part 3, preparation for preliminary approval.

Present for applicant: Steve Esposito

Graham Trelstad, Planning Consultant to the PB on this project, referred to a memo dated 4-27-07 to the PB which responded to a list of comments and questions from the PB on the sufficiency of the EIS.

Ms. Cleaver said she had questions about the retention pond and the rain gardens and the way the lots are aligned, saying she believes there are different options than having each rain garden on each lot. Mr. Trelstad replied that in his memo he is saying that while you could potentially come up with an alternative storm water system, there are tradeoffs and challenges associated with it. The applicant has designed an alternative system, that has been attached to the memo, that shows the amount of disturbance that would be necessary to establish another smaller pond and the effect on the lot layout. “If you want the low impact development system, it may mean additional open space is taken for another wet pond and another lot is moved so it is a question of which impact is greater and what the PB is comfortable with,” he said. Ms. Cleaver said she thought a lot better can be done. Mr. Trelstad said that if the PB wants the applicant to do additional detail design work, it can request it.

Mr. Huddleston said he would go with the one large detention basin shown on the original plan, saying you can keep your open space less manipulated. He asked Mr. Trelstad to talk about the amount of treatment you get out of a rain garden. Mr. Trelstad said the rain gardens proposed for the project would have to rely on back fill because the native soils on this property are not conducive to infiltration. That is one of the challenges we are faced with, he said. Ultimately all of the water volume, minus a small fragment, will find its way into the storm system because there is no way to get the infiltration from the native soils. There is potentially some

water quality benefit but ultimately what we were looking to do was to decrease the size of the main water basin so that we could avoid impacts to the wetlands but we are not sure that can be achieved with two or forty rain gardens on the site, he said.

Mr. Esposito said the applicant has prepared three alternatives and had two workshops with the planning staff. He said that his conclusion and the conclusion of the planners is that the original proposal is the best alternative. He said it uses low impact methods, is manageable both long term and short term and minimizes the disturbance of the farm.

Mr. Huddleston said that if the rain gardens are done, we will have to backfill them to create them because we don't have the proper soils so we are creating small artificial filters at every location. In answer to Mr. Huddleston's question, Mr. Henry said the original option was the best method technically.

Ms. Cleaver asked if the layout could be done differently, other than the options that have been given, without the loss of open space. "We have crammed a house everywhere we could cram a house in here and now because we want rain gardens we are going to put them in the farmland. Get rid of some of these houses and put in a couple big rain gardens."

Mr. Trelstad said any additional rain gardens would have to be located on the other side of the hillside to provide a benefit and said they are needed in the central core, along lots #28 through #33 on the other side of the wetlands. Rain basins are nice, he said, when the land is flatter because it is easier to work them into the natural topography. "You have some potential impact from storm water, potential impact from the community character and you are trying to protect open space. It is up to the PB to determine do they like the layout, does it achieve all the objectives and could there be a better way given the constraints on the land." He said he is not convinced that having additional rain gardens would improve the layout and that the original layout that included all of the open space preservation is a good approach given the nature of the landscape. "My impression is that likely you will not find a way that is significantly better than the way it has been laid out. When you look at the contours of the land, the way the lots and road lays out, it seems to be the way that the land is wanting to be developed, because of the contours of that hillside and the way that ridge line runs, that is the way to run the house lots. You have asked if there is a better way, I would say potentially but I think the original layout is as close as you can get."

Mr. Esposito said the front knoll along Arcadia Rd. is being preserved, with the applicant agreeing to push the development behind that, preserving the farm up front, preserving the corridor along Arcadia Rd. and building 800 feet of road before getting to the first lot.

Ms. Israelski said people have expressed concern that the direction of the water flow is going to change with this development. Mr. Henry said that was looked at and “they are not changing drainage patterns in this case.”

Ms. Cleaver asked who will be responsible for the two detention basins. Mr. Esposito said a drainage district will be proposed. Mr. Golden said that will require the Town to accept the district and that if the Town doesn’t accept the District, then who owns the property that it is on, will be responsible for it. In that case, he said the PB can require deed restrictions that require it to be taken care of. The best way to have them taken care of is to have a district, he said, and it is the Town’s decision if they want that district. He said that rain gardens could be included in the district.

Mr. Halloran said that Section 97-41 (f) of the Code needs to be addressed, in that the roof lines cannot go above the tree lines or above the crest lines as seen from a public road.

Mr. Esposito said the proposed landscaping plan includes a very strong hedge row along the top of the ridge, and also running perpendicular to Arcadia Rd. Mr. Trelstad said the hedge rows should do the job of screening and will serve to minimize the visibility, saying that nothing can screen anything completely. He said he doesn’t see any problem with the application’s qualifications with respect to Section 97-41 (f).

Mr. Golden said that 97-41 (f) is more of a zoning requirement setback than it is something the PB has discretion about, and said the Building Inspector makes the determination. “Mr. Halloran is saying that when you have a project and 97-41(f) requires that the houses to be built cannot pierce the skyline on the crest of the hill or above the tree tops, the house doesn’t have to be at the crest of the hill, it depends on any street that is around there. It may be very broad but that is the language of the provision, that if you look up and see the house pierces the skyline above the crest of the hill or treetops, so it depends on the elevations, that the house is somewhere up the hill versus where the road is. Neil has said in his interpretation that, that is prohibitive.”

Mr. Golden said one of the ways the PB can deal with it, is to address it now before giving preliminary approval or making it a condition of preliminary approval. The applicant will have to comply with that Section between then and the final and it will be up to them to make sure there is enough proof “that in fact it is not piercing the sky.” He said he considers it a very objective criteria.

Mr. Trelstad said he disagrees, saying he sees the section of the code as subjective, as principles, not mandates. "These rural siting principles are what are now being considered as part of the overall flexibility we want to give Planning Boards to design the site as the land calls for it. It is not to box you in to a certain set of standards that must be met," he said.

Mr. Trelstad said the public hearing was held and closed on 1/4/07 and in his opinion most of the concerns of the PB had been addressed.

Ms. Cleaver asked if the 50 foot no-build buffer surrounding the project was going to be an undisturbed natural buffer. Mr. Huddleston polled the PB members. Mr. Bergus, Ms. Israelski, Mr. Andrews, Mr. Huddleston and Mr. Lupinski wanted a buffer that could be landscaped and Mr. Myruski and Ms. Cleaver wanted a natural (unlandscapped) buffer.

VOTE BY PROPER MOTION, made by Mr. Huddleston, seconded by Mr. Bergus, the Planning Board of the Town of Goshen declares a negative declaration on the subdivision application of Traskus, stating it will have no significant impact on the environment. Motion passed 5-2.

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

Mr. Golden recited the conditions agreed upon for preliminary approval:

1. Proof submitted that the plans are in compliance with Section 197-41(f) of the Town Code prior to signing.
2. The Town Engineer shall witness all perc and pit tests that are not witnessed by the County Health Department
3. A 50 foot buffer surrounding the entirety of this project is to be a no build buffer, to contain no structure as defined by the Town Code, but can be landscaped.
4. The applicant will make an offer of dedication of the drainage district for storm water facilities and if the Town does not accept that drainage district, then they must return to the PB to show an alternative plan prior to final.
5. The wet pond design and landscaping must be set forth and approved by the PB and its consultants.
6. There shall be fencing along the westerly side of the road and proposed storm water management facility on the farm site.
7. Erosion control plan, storm drainage and SWPPP shall all be acceptable to the Town Engineer.
8. Applicant to indicate which trees are to be removed on the landscape plan.

VOTE BY PROPER MOTION, made by Mr. Lupinski, seconded by Ms. Israelski, the Planning Board of the Town of Goshen grants preliminary approval with conditions (as listed at the PB’s 5-17-07 meeting) for the 38 lot subdivision located on Arcadia Road, the Application of Traskus. Approved unanimously.

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

Heritage Estates – 8-1-9.22 – 249.76 +/- acres, 92 dwelling units located on Old Chester Rd. & Brookside Dr. in the HR & RU zone with an AQ6, AQ3, scenic road and stream & Reservoir overlays. Discussion of findings, conditions, bonus density notice of acceptance.

Present for the applicant: Steve Esposito

Town Consultant Graham Trelstad said the PB is to consider the draft Findings Statement, which has been submitted. The language in the FEIS and the DEIS was used to draft the Findings Statement, he said. The FEIS was approved with PB revisions on April 19, 2007. Adoption of the Findings Statement by the PB is the last step in the SEQR process.

Mr. Golden said the PB needs to adopt the Findings Statement and issue preliminary approval by June 7th unless the preliminary approval time frame is further extended by the applicant. Mr. Esposito confirmed that June 7th is the day the Findings need to be filed and preliminary approval addressed. Mr. Golden suggested that the PB discuss changes that ought to be made so it can be finalized by the next meeting and discuss conditions it wants on a preliminary approval.

Mr. Golden said one of the conditions will be compliance with Section 97-41 (f) of the Town Code. Ms. Israelski agreed saying that the cluster development will have such a tremendous visual impact that the applicant must comply with the section of the code. Both Ms. Israelski and Ms. Cleaver said they didn’t think the visual impact was properly addressed in the FEIS.

Mr. Trelstad said that the cluster housing will be able to be seen from Old Chester Rd. and said the way to avoid that would be to bring the houses closer to Old Chester Rd., where the land flattens out, or build them into the trees, the area the PB is trying to preserve. He said he has concerns “that if you make a very strict interpretation of that provision of the Code, you will find that it is very difficult to develop any piece of property in the Town of Goshen and that was not the intent of

this section of the Code". He said he believes the PB can exercise its authority to balance multiple objectives and benefits and impacts of the project, saying he believes Section 97-41 empowers the PB to use that authority in a flexible manner.

Mr. Golden said the courts are very clear as to how codes are going to be interpreted, saying that with a zoning code, if there is any question as to the intent, that it is not the legislative body that passed it who will determine what the code means, it is the Building Inspector who determines what the Code means and if anyone wants to challenge that interpretation, they can take that up with the Zoning Board of Appeals, who has the final word. The Town Board has the ability to change the Code, after it has held a public hearing, he said.

Ms. Israelski said the PB needs to see the conservation analysis superimposed on the sketch plan. Mr. Esposito said the development area is superimposed on top of the existing ecological conditions in the DEIS. He said there will be .4 acres of woodland being removed from the site and 200 acres of woodland saved. Ms. Israelski said that "every large mature tree counts, they will help mitigate the visual impact so every large tree should be saved." She said she wants to see what individual trees are being cut down. Mr. Esposito said there are no individual trees being removed for the cluster, that the houses are being built in the field. He said the applicant will be cutting a road through the hedge row, removing about 25 feet of that hedge row. He agreed to ribbon up the areas of the hedge row that the road will go through "so that a decision can be made by June 7."

"We worked very hard to preserve the Kolk Farm, we are saving 70 acres out of the site as open space, we are preserving the entire corridor of Old Chester Rd, we are proposing one driveway, the tree line is not going to be disturbed with the exception of building a small road, the road is there already, the trees have been taken down. There is an existing hedge row along the westerly property line, it is going to remain," Mr. Esposito said.

"We are being told that we are being held to June 7th," Mr. Huddleston said.

Mr. Golden said that the Findings Statement and the potential for preliminary approval, are set for June 7th, subject to the County Planning Dept. If County Planning gets their report back in time, then by June 7th the PB needs to have preliminary approval with conditions or there is a default approval that goes into effect without any conditions, he said. The vote will require a supermajority (5 votes). The PB could also vote to disapprove and "the applicant can do what they want to do with a disapproval," he said. As long as there is a supermajority, the PB can vote to disregard the County Planning Department's advice, but the PB must report back to the County as to why it is disregarding their recommendations. Mr. Golden also said that a determination on bonuses will have to be made by June 7th.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Israelski, the Planning Board of the Town of Goshen sets a special meeting for the sole purpose of discussing the application of Heritage Estates for May 31, 2007 beginning at 7:30 p.m. Approved unanimously.

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

Mr. Esposito thanked the PB for scheduling a special meeting and said the applicant is willing to extend the time period to June 21st in light of the special meeting.

Persoon – 17-1-4 & 36, 127 +/- acres, 26 lot subdivision, located on Maple Avenue, Winners Circle and Breezeway Lane. 66.5 +/- acres in the RU Zone with an AQ3 and scenic Road Corridor overlay. 60.4 +/- acres in the AI zone with a scenic Road corridor & Flood Plain overlays. Possible final approval Phase 1.

Present for the applicant: Steve Esposito

Applicant is requesting final subdivision approval of Phase 1 which consists of lots 1-5 fronting on Maple Ave. The existing house is located on one of the five lots.

Mr. Garling asked the applicant to show an alternate access construction road. He suggests taking the service road that is to construct and maintain the drainage areas and continuing that road up to Lot #6. It could be done without impacting the septic system and the grade is at 10% except for about 70 feet that is 15% grade, he said. The road would continue up to the culdesac. He recommends Lot #6 and Lot #1 be the last built, until completion of the road system in Phase 2.

Mr. Esposito said there is no problem with investigating the construction road, but there would be a problem restricting development of Lot #1 because the owners wants to build a home for themselves on Lot #1. Mr. Huddleston said, “we are asking that that construction road be used instead of Winners Circle and Breezeway to save the roads and save the disturbance of the multiple units there” and asked if the owners will be willing to live with a construction road running along the side of Lot #1. Mr. Persoon said it was acceptable and agreed to accept it as a condition.

Mr. Golden said that when preliminary approval was given in 2006 there were 12 conditions, some of which have not been complied with. He said the plan cannot be signed for filing until all of the conditions are met. The conditions were discussed and it was determined that the following would be carried forward:

1. Orange County Health Dept. approval of all septic systems and wells. (prior to signature)
2. The finalized storm water plan shall be in conformance with NYS DEC regulations prior to any construction on the site.
3. Obtain necessary highway work permit from the Orange County DPW for curb cuts onto Maple Ave. (prior to construction)
4. Prepare all necessary legal documents evidencing restriction of development over the open space areas as set forth on the preliminary plan which includes restrictions limiting future curb cuts on the portion of the property located on the north side of Maple Rd. to one curb cut and restricting development on the 7.73 acres of said parcel not reserved for open space to a maximum of three homes subject to all other applicable Town of Goshen, County and State land use regulations. (prior to signing)
5. Adequately address the comments of the Town’s engineering consultants set forth in the memo dated March 16, 2006. (prior to signing)
6. Payment of all requisite fees.(prior to signing)
7. Compliance with 97-41(f) as to Phases 2 & 3. (prior to approval of phases 2& 3)
8. Construction access including all trades for Phases 2 & 3 is the access road as discussed at the 5-17-07 PB meeting. After all of the roads for this project are dedicated and accepted, then Winners Circle and Breezeway can be used.
9. Provide appropriate landscaping buffer such as four trees in the area of the existing “T” turnarounds that are to be removed at the end of Winners Circle and Breezeway Lane. (prior to dedication of the road)
10. The construction access road for phases 2 & 3 will be the access road as shown on the site plan on the northerly side of lot #1, intersecting County Route 31.

VOTE BY PROPER MOTION, made by Ms. Israelski, seconded by Mr. Bergus, the Planning Board of the Town of Goshen grants final approval of the Persoon subdivision with conditions as discussed at the PB meeting of May 17, 2007. Approved unanimously.

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

The Planning Board adjourned at 10:55 p.m. upon motion made by Ms. Cleaver and seconded by Mr. Lupinski.

Ralph Huddleston, Chair

Notes prepared by Susan Varden

