

APPROVED MINUTES

**Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, NY 10924
June 7, 2007**

MEMBERS PRESENT

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

ALSO PRESENT

Neal Halloran, Bldg. Insp.
Joe Henry, Engineer
Kelly Naughton, Attorney

CALL TO ORDER

Acting Chair Mary Israelski 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. Myruski, seconded by Mr. Andrews, the minutes of the 5-17-07 meeting were approved with amendments, by vote of the Planning Board.

CONTINUATION OF 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.

Present for the applicant:

Mr. Sutherland
Jay Samuelson, Engineer

Mr. Sutherland said that this is an application for an accessory dwelling for his parents, one bedroom with a kitchen and bathroom, 24 x 40 (960 square feet) to be constructed off the back of his home. Mr. Halloran said that an accessory dwelling is allowed under the zoning, although it is limited to less than 1000 square feet. This will have a separate entrance and is considered a two family house, Mr. Halloran said.

Ms. Israelski opened the hearing to public comment.

Bill Bineman, of 43 Ridge Road, who lives directly behind the property, said he was also speaking for Frank Mooney who lives at 41 Ridge Rd. We have no objection to an addition, no matter how big he wants to make it but we strongly object to designating this house as a two family, Mr. Bineman said, because whenever there are two families, the neighborhood depreciates. He said they don't think the PB should make an exception and make this a two family home, saying that it is a one family neighborhood. His other objection, he said, is that his property is at a 30 degree slope from Mr. Sutherland's, and he expects a 1000 sq. ft. addition to increase the water flowing onto his property, saying that is what happened when the previous owner put on a 500 sq. ft addition.

Town Engineer, Joe Henry, said he visited the site and didn't see anything unusual that would create a drainage problem. He said if Mr. Bineman is having problems now, this amount of water isn't going to make much difference. If a drywell is put in, the question becomes where would you put it because you can't be close to the septic tank, he said. Ms. Israelski asked him to take another look and to look at drywells and other ways to re-direct the water so it doesn't flow directly below.

Project Engineer Jay Samuelson said the addition will be on the backside of the house, and will tie into the existing gutter and discharge right at the base of the house, with the water flowing overland for awhile before it hits any other property.

Helen Guerrero, 7 Ridgeview Terrace, lives directly next door and said there is a dramatic difference in the amount of standing water on her property since the previous owner put on the 500 sq. ft. addition.

Project Engineer Jay Samuelson said the water is not solely from Mr. Sutherland's property, that there are properties above his that are contributing to the flow.

Mr. Sutherland said his addition is on the extreme other side of his property and that he does not intend to take any of the ground and place it down on their end of the property because he knows it would raise the pitch and would make it worse for them. He agreed to consider installing a drywell.

Frank Guerrero, 7 Ridgeview Terrace, said he is concerned with whether the existing septic will be able to handle the addition, from a four-bedroom to a five-bedroom house. Mrs. Guerrero said that the house is assessed as a four bedroom.

Mr. Henry said he has reviewed the septic and the original subdivision plans which were approved by the Health Dept. for a maximum of four bedrooms. He said he was under the impression that the current house was a three bedroom. Mr. Sutherland stated that one bedroom is used as an office. Mr. Henry said the plan

will have to go to the Health Dept. for approval as a five bedroom. Mr. Samuelson said he did perk tests a few months ago and it perked in the 3-5 minute range, but that now they will have to make sure there is room to put in enough lines for a five bedroom house. Mr. Henry said the subdivision map, approved in 1980, says the soils are "sand fill". Mr. Samuelson said he will design a septic system for a 5 or 6 bedroom house and will get it re-approved by the Health Dept.

Mr. Rich Barries, a neighbor, said his concern is with emergency access to the neighborhood, saying that once the door is opened to two-family houses, traffic will double, and there is only one way in and out of the subdivision.

Mr. Miller, a neighbor, said if Mr. Sutherland is given permission to make a separate entrance, and later sells the house, then the new owner will have the right to rent on his property. He said the PB will have changed the zoning from single family residential to multi- residential.

Mr. Halloran said it is zoned now to allow for a two family house. Three years ago the Town Board changed the Code, he said. "You are allowed to have an accessory dwelling , restricted to no more than 1000 square feet, on a lot that is less than 6 acres. Mr. Sutherland's will be an accessory dwelling, making it a two family house, that he could rent out but he can't sell that separate half, Mr. Halloran said.

Mrs. Guerrera asked if Mr. Sutherland could do what he wants to accomplish without changing it to a two family? Mr. Halloran said "not with a separate entrance."

Mr. Steve Brown suggested constructing a breezeway with an attached roof. Mr. Halloran said it would still be considered a two-family house.

Mr. Sutherland said he is honoring his parent's wishes by providing them with an entirely separate entrance, because they don't want to be able to access his home, or Mr. Sutherland access theirs.

Mrs. Guerrera said she would like the public hearing held open.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Myruski, the Planning Board of the Town of Goshen closes the Public Hearing on the application of Sutherland. Motion passed with four "ayes", one "nay" and one abstention.

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

Ms. Israelski said that the PB has heard the public's concerns and that the County Health Dept. will check out the septic and the Town's Engineer, Joe Henry, will check out the drainage.

AGENDA ITEMS

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.

Ms. Israelski said the PB intends to discuss additional conditions to a Preliminary Approval of the subdivision. Mr. Halloran said the PB had met a week ago for five hours and agreed upon 57 conditions. Additional conditions were discussed:

#58 - The PB decided to eliminate #58 of the "Specific Conditions" on the "Draft Resolution of Conditional Approval" because it is already covered in #5, but will add "satisfactory to the Town Attorney and PB" to the last sentence of #5.

#59 - Keep as is, reading: "Prior to Final Approval, the applicant must submit all appropriate details to demonstrate compliance with Zoning Code Section 83-18, including a letter of approval from the Town Highway Superintendent."

#60 – To read: "The applicants propose an economical model for the anticipated life of various systems and an estimate of the costs involved, prior to final approval."

#61 – Delete, because it refers to 7.16 acres along the Heritage Trail that is not a part of the application. Ms. Naughton said that the parcel is off site and the PB can't require an off site improvement.

#62 – Delete, it is not a condition but Ms. Israelski said that it will be talked about with the Findings Statement, saying she has done her own research and wants to change the number of school age children that are used in the Findings Statement.

#63 - Delete.

#64 – "Prior to Final Approval, the applicant must demonstrate to the satisfaction of the PB and its consultants that the steps of the water testing protocol that were changed by the applicant had no effect on the results for the quantity and quality of the water to service the residences approved by this Resolution." It was stated that this is not a condition but Ms. Israelski said that the PB never received the letter it requested from the professionals stating that the steps that were changed were okay.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Myruski, the Planning Board of the Town of Goshen requests a document from the qualified hydrologist from Stantec in reference to the water testing protocol followed on this project.

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

#65 – Delete, it was addressed in #15.

#66 - Delete reference to “vehicular road” and change to read: “Prior to Final Approval, the applicant shall provide sufficient engineering and construction details of pedestrian pathways to facilitate the review by the PB to determine (1) the longevity and practical use of such pathways, including bicycle and pedestrian uses, including the connect to the Town Park on Craigville Road and the Heritage Trail and (2) the feasibility and practicality of the Brookside Drive emergency connection (including any plan regarding pedestrian/bicycle use of such emergency connection) and the details of the plan of repair of the existing “T” at the terminus of Brookside Drive. Ms. Israelski said that these trails are mitigating measures.

#67, 68 and 69 - Delete.

#70 – Keep as is: “Prior to Final Approval any crossing of wetlands or streams approved by the PB and other regulatory agencies, must be designed in such a fashion so that replacements or repairs can be performed with as little further disturbance as practicable.”

#71 – Change it to read that the entire subdivision is to be a drainage district.

#72 – Keep it, but include as “per phasing.”

#73 – Have Attorney Rick Golden look at it.

#74 – Keep it as “The designated wetlands outside of any areas dedicated to the Town shall be the responsibility of the HOA, who shall be responsible for the preservation and prevention of degradation to the wetlands.” Ms. Naughton said she would add language indicating that the estate lots and the farm lands are responsible for their portions.

#75 & 76 - Delete.

#77 - Keep as is - “If the applicant, or any contractor or agent of the applicant, receives any directives, notice or warnings with regard to habitat preservation or timing of clearing or excavation by any governmental authority, such directives, notice or warnings must promptly be conveyed to the Town Board, PB and the Building Inspector.”

Referring back to #31 - Remove trunks (18”) and keep “to the greatest extent practicable.”

#78 - Keep as is: “The project sponsor shall submit two copies of all submissions to and responses from the involved agencies between the time of this Preliminary Approval to Final Approval.”

#79 - Re-word to say, “In accordance with Section 8312-D(4) no top soil shall be exported from the property without PB approval.”

#80 - Re-word to read: “All inlet frames to storm water facilities shall include markings that say, “No Dumping – Drains To Water Source” or similar language approved by the PB.”

#81 - Delete.

#82 & #83 - Combine to read: “In accordance with the Town Code, individual remote residential meters and any other associated symmetry control system to monitor the proposed residential water usage.”

#84 – Change to read “Prior to Final Approval the specific design and shape of the storm water basins shall be approved by the PB.”

#85 – Keep: “Wetland areas shall not be disturbed without prior approval of the agency having jurisdiction and the PB. Wetland areas shall be provided with temporary fencing during any period of construction or site work to ensure no encroachment. Such fencing shall be 5 feet outside the area to be protected.”

#86 – Change to read: “Wetlands and any required buffers are to be marked, with ESA signs, on individual lots prior to Final Approval.”

#87 - Change to: “Culverts, as detailed on the site plans, are to be used for all crossings of wetlands and streams in order to preserve the original stream or wetland bottom, maintain hydrologic conditions, stream or wetland slope, and facilitate wildlife movement.”

#88 - Keep as is: "Before each new phase can be started, lots within a previous phase must be stabilized and the infrastructure substantially completed."

#89 - Change to: "Disturbance of soils after October 15 cannot reasonably be expected to develop sufficient germination of hearty stands of grass to withstand a harsh winter without soil erosion. Therefore, any disturbed areas after October 15, not otherwise stabilized are to be mulched with an anchoring material as soon as possible, as approved by the Town Engineer."

#90 – Delete.

#91 - Refer to attorney Rick Golden (PB wants approval).

#92 – "Bicycle racks and benches are to be provided in the common areas" will be incorporated in #54.

#93 – Change to read: "Water saving fixtures must be used to reduce the quantity of water consumed, to the greatest extent possible. Certificates of occupancy shall only be issued in compliance with such obligation."

Ms. Cleaver asked if there was to be blasting and Mr. Esposito replied that there is no blasting anticipated but that there are blasting protocols if there is blasting. Ms. Cleaver then asked about bonding and the PB decided to refer the question of bonding to Mr. Golden.

#94 – Keep as is: "Land cannot be further subdivided based on the fact that the overall density of the unused lands was counted towards the density of the approved portion of the subdivision together with the visual impacts of this project and the associated mitigations and the overall uniqueness of the approved layout of this project." This refers to a particular part of the parcel and will be a note on the plan. #94 will be combined with #99 - "Deed restrictions are to be utilized to memorialize the transfer of the 1.51 acres. Said deed restrictions are subject to the approval of the Town Attorney. The applicant must also obtain the owner of Westinghouse Farm's endorsement."

#95 – Keep as is: "The southerly property line between lots 92 & 93 need to be adjusted on the plans to reflect the acreage, approximately 10 acres, in the area table."

Mr. Halloran said that Lot #93 will be 17 acres of which 10 acres will have the agricultural easement and Lot # 92 will be 44 acres and 38 acres of agricultural easement.

#96 – Keep as is: “Prior to issuance of final approval, the applicant is directed to propose additional right-of-way along the southerly corner of the Kolk Farm, Knoell Road, parcels 11-1-98.1 and 11-1-19.”

Mr. Halloran said he believes there has been some misunderstanding, stating that the applicant has shown on his plans 25 feet of right-of-way for the Town, from the center of the road, running the entire length of the property. He said everyone should understand that “we are not asking him for all 50 feet from his side.”

Ms. Israelski said the PB wanted to make sure that it is enough for road improvements, and that if it accomplishes the purpose then that is enough.

#97 – Keep as is: “The applicant must offer for dedication the 50 foot right-of-way known as Bridle Path and noted on the cover sheet as “Existing Dirt Lane” on Open Space Parcel B.”

#98 - “Lots 88 through 92 (estate lots) will be served by public water and served by individual septic tanks.”

General Conditions

#1. Add “NYS Dept. of Health” so it reads: “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, the NYS Department of Health, and the Town of Goshen Town Board.”

#2. Add “agricultural operations” to “No disturbance of the parcel’s property is authorized by this Resolution outside of the limits of disturbance noted on the approved plans.”

#3. Add “any” to read: “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 any other additional relief as authorized by law, if any term or condition of this Resolution is violated.”

#4. Keep as is: “All fees regarding this application must be paid in full, including all application fees, and the fees of the Planning Board consultants, including all engineering, planning and legal fees. The Town reserves the right to request

additional deposits to the project review escrow fund if necessary to cover additional costs. All additional fees, escrow monies, bonds or other security and any other payments required by this Resolution shall be paid or deposited in a timely manner. No building permits may be issued, or continued to be issued by the Building Inspector unless and until such fees or other payments are timely paid, escrow properly deposited and such bonds or other security shall have been filed with the Town.”

Ms. Cleaver questions if there should be a time limit attached to #4 and asked if Mr. Golden would look into it. Mr. Sweeney wants a grievance proceeding added and will propose a grievance plan for Mr. Golden to consider.

#5. Keep as is: Within five days of preliminary approval, the preliminary plat must be certified by the Secretary of the Planning Board and a copy filed in the Secretary’s office, a certified copy mailed to the owner, and a copy forwarded to the Town Board and appropriate School District. An application for final plat approval must be submitted within six months after the approval of the preliminary plat, or the Planning Board may revoke its approval.”

#6. Keep as is: “This Conditional Approval shall expire 180 days after the date of the Resolution granting such preliminary 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.”

Mr. Halloran reminded the PB that it is still waiting for a response from the County who has until June 29th to respond. He said PB members should expect at the June 21st meeting to approve the Findings Statement and at the July 5th meeting to vote on the application. The PB needs a super majority (five) votes to over-ride County comments that it doesn’t agree with, he said.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Planning Board of the Town of Goshen adjourned to Executive Session at 9:35.

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

Mary Israelski, Acting Chair

Notes prepared by Susan Varden

