

**APPROVED MINUTES**  
**Town of Goshen Planning Board**  
**Town Hall**  
**41 Webster Avenue**  
**Goshen, NY 10924**

**APRIL 1, 2010**

**Members Present:**

Reynell Andrews  
Lee Bergus  
Susan Cleaver  
Ralph Huddleston, Chair  
John Lupinski

**Also Present:**

Neal Halloran, Building Inspector  
Ed Garling, Consultant Planner  
Sean Hoffman, Consultant Engineer  
Kelly Naughton, PB Attorney  
Rick Golden, PB Attorney

**Absent:** Mary Israelski  
Raymond Myruski

**MINUTES**

The minutes of the Planning Board Meeting of March 4, 2010 were not approved because a quorum of members attending the March 4<sup>th</sup> meeting were not present.

**Conob Realty – 11-1-26 – 1.8 +/- acres**, located on Route 17M and Arcadia Rd. in the CO zone with an AQ3 overlay. Review of plans to be signed and possible extension of conditional approval major site plan.

Mr. Halloran said that the applicant has met the condition of approval from the DOT and the code compliant sign being shown on the plan. Mr. Garling said the PB must agree on the color of the metal building which is proposed to be a muted green. The PB decided they were generally agreeable to the muted green.

The applicant is seeking a six month extension to June 27, 2010. The last PB meeting prior to that date is June 17, 2010.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Mr. Lupinski, the Town of Goshen Planning Board grants a six month extension of the site plan approval for Conob Realty to June 17, 2010. Approved unanimously.

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

**Meadows of Goshen – Possible extension of Conditional Final Approval**

Mr. Halloran said the 180 days have elapsed and the applicant is seeking an extension of their conditional final approval. Mr. Golden said that the 180 days will actually expire on April 3, 2010 and the PB can grant up to two 90-day extensions.

**VOTE BY PROPER MOTION**, made by Mr. Andrews, seconded by Mr. Lupinski, the Town of Goshen Planning Board grants an extension of its conditional final approval on the application of Meadows of Goshen to September 30, 2010. Approved unanimously.

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

**Myruski – 24-1-88 – 96.7 +/- acres**, located on Indiana Road in the AI district with an AQ3, flood plain and stream & reservoir overlays. Lot line change.

Representing the applicant: Jim Dillin, Jr.

Mr. Halloran said that this is a lot line change in the middle of the Black Dirt area where the applicant proposes to take some acreage off of one lot and add it to another lot. The land is used for farming, he said.

Mr. Dillin said that revisions were made to the map according to the Town Engineer’s comments. Mr. Hoffman has not seen the revised plans but said their comments were minor. It is a lot line adjustment, he said.

Mr. Golden said that most lot line changes are not actions under SEQRA because they do not affect the environment by changing the use, appearance or condition of any natural resource. He said he believes this type of lot line change is not an action under SEQRA and therefore the PB does not have to take further action in that regard. But the PB can recognize that this is not an action under SEQRA, he said.

Mr. Golden said the PB must determine if there should be a public hearing, stating that it is discretionary with this type of action. The PB determined that a public hearing was not necessary.

Mr. Golden told the PB that it will have to make one specific finding that in accordance with the requirements of the stream corridor and reservoir overlay district, “the project does not result in the degradation of the scenic character, is aesthetically compatible with its surroundings and will not result in erosion or surface water pollution from surface or subsurface runoff.” He said the “239 Response” has been received from the County stating that the project is of “local determination”.

Mr. Golden said that the only condition of approval would be that the applicant must comply with the memorandum of the Town Engineer and the suggestion that the applicant gratuitously offer a certain triangular area along Indiana Road to the Town of Goshen. Mr. Dillin agreed that the applicant wants to gratuitously offer the triangular piece of property.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Mr. Andrews, the Town of Goshen Planning Board finds that the Myruski lot line application does not result in the degradation of the scenic character, is aesthetically compatible with its surroundings and will not result in erosion or surface water pollution from surface or subsurface runoff. Approved unanimously.

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

**VOTE BY PROPER MOTION**, made by Mr. Andrews, seconded by Mr. Bergus, the Town of Goshen Planning Board grants conditional preliminary and final approval to the lot line adjustment of Myruski Farmland Holdings LLC with the condition that prior to the signing of the plans, the applicant must comply with the Memorandum of the Town Engineer dated March 26, 2010 and with the standard general conditions. Approved unanimously.

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

**Heritage Estates – 8-1-9.22 – 249.76 +/- acres**, located on Old Chester Rd. & Brookside Dr. in the HR & RU zone with an AQ6, AQ3, scenic road and stream & reservoir overlays. Bog Turtle Study.

Representing the applicant: Steve Esposito

Mr. Halloran told the PB that one of the conditions of preliminary conditional approval was that the Town will hire a bog turtle consultant to do the bog turtle study, at the applicant's expense, in one particular area. He said that estimates of \$17,000 and \$27,000 were received from two consultants.

Mr. Esposito talked about the studies that have already been done stating they showed no bog turtles and suggested that a possible habitat does not mean bog turtles are present. He said the applicant's study cost \$6800, stating that the Town's two estimates are 2-3 times

the cost, pointing out that this is for a part of the site the applicant does not intend to build on. He asked “why” an additional study needs to be done.

Mr. Golden read condition #11 of the preliminary approval. It stipulated that the Town hire an expert, to be paid by the applicant, to evaluate wetland #10 for the presence of bog turtles. Until wetland #10 has been evaluated, there can be no disturbance of the lot or the buffer area within 300 ft. of the lot.

Mr. Esposito said the well within the 300 ft. is going to be abandoned and the well road removed.

Mr. Esposito asked that the Town not execute either of the contracts at this time. “If the condition stands, we have until the final approval,” he said.

Mr. Huddleston said there is time for the Town to obtain other estimates.

**T-Mobile – 10-5-55 – 7.8 acres**, located on Cypress Road in the CO zone with an AQ6 overlay. Wireless communications facility.

Representing the applicant:

Cara Bonomolo, Esq.

Ms. Bonomolo said the applicant is seeking a special permit to locate a wireless telecommunications facility on a commercial property at 78 Cypress Rd. It will consist of an 85 ft. stealth flag pole tower with six panel antennas located within a fenced compound at the base.

She said she believes they have demonstrated that the facility is necessary to remedy a significant gap with T-Mobile’s reliable coverage within the Town. Ms. Bonomolo said she has submitted a visual rendering of the facility, a structural report, full EAF and a site plan. As currently proposed on the plans, Ms. Bonomolo said the applicant needs an area variance from the required side yard setbacks but that at a staff meeting there was discussion as to whether the facility could be re-located on the site to meet the setbacks. She presented a new plan which re-located the facility to meet the setbacks and said she believes the new location is a good location. She said by moving the tower it will meet the 85 ft. side yard setback, the 350 ft. setback from the Heritage Trail and all of the other setback requirements.

Mr. Golden told the applicant that the new plans need to be submitted to the Building Department. Ms. Bonomolo said she wanted confirmation from the PB that the new location was a viable one. Mr. Huddleston said it was better that the applicant meet the setbacks as long as a significant visual difference is not created. He said that if there is

something about it that the PB doesn't like, it can recommend the applicant seek a variance. Ms. Bonomolo said she will submit new plans showing the new location at the next PB meeting.

Ms. Cleaver said she wants to see photographs of views from the Heritage Trail. Ms. Bonomolo said the applicant will have to do a new balloon test and the PB decided which viewpoints they want taken from the trail. It was agreed that the applicant will notify the PB when they do the balloon test so that individual members can be present.

Ms. Bonomolo noted that the applicant has reduced the width of the antennas and eliminated the platform so it has a narrower focus.

Mr. Huddleston said he wants to see other stealth options from the applicant.

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board declares its intent to be the lead agency on the application of T-Mobile. Approved unanimously.

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

**VOTE BY PROPER MOTION**, made by Mr. Andrews, seconded by Mr. Bergus, the Town of Goshen Planning Board sets a public hearing on the application of T-Mobile for May 20, 2010. Approved unanimously.

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

Ms. Bonomolo said the applicant will do a balloon test between now and the public hearing and will notify the PB when doing the test.

**Ruby Construction – 18-2-13 – 2.1 acres**, located on Route 17A in the HC zone with an AQ3 overlay. Site Plan.

Representing the applicant: Pete Berman

Mr. Berman said that the project location is commonly described as the “old Karpy building”. It had been destroyed by fire and the applicant wants to rebuild on the same footprint. Currently the applicant is using three trailers at the site for offices. He said he wants to re-build within a year and mentioned that the new building will have a green

(grass) roof. His construction company and a health care company will occupy the building. He said the well and septic will not be affected.

Mr. Hoffman said he sees this as two separate applications and explained that the applicant needs approval of the site plan for the three trailers and then will come back for approval for reconstructing the destroyed building.

Mr. Halloran explained to the applicant that the only way legally to get the three trailers there is to approve a site plan for the trailers.

Mr. Berman said that wasn't what was discussed at the work session and asked if there was a way to make the process less costly to him. He said the Town's consultant's fees are not covered by his insurance company. He said he has already received a bill from a consultant for \$300. He said his goal is to be out of the trailers and into the building by October 1, 2010 and said that he complies with all of the zoning and is using the same foundation.

Mr. Golden told the applicant that subsequent to the work session, Mr. Halloran issued an interpretation of the code that the applicant needed a site plan for the three trailers. Everyone is working toward getting approval for the three trailers, he said, and then the applicant can come back with the rest of it.

Mr. Halloran said it is a pre-existing non-conforming use because the setback doesn't meet the current code, and that under the code he has to have a site plan to re-build it. "We are trying to move this along so that we can legitimize the trailer use," he said.

Mr. Huddleston said the PB needs to see how the septic is going to interact with the building. Mr. Berman says he has that and can provide it.

Mr. Huddleston told the applicant that the PB doesn't have an adequate site plan under the Code to move beyond the trailer issue. "We have to deal with the trailers being used as offices," he said.

Mr. Golden told the applicant that the right to re-build without site plan approval does not exist because it is a pre-existing non-conforming use.

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Andrews, the Town of Goshen Planning Board declares that the application of Ruby Construction for site plan approval for three temporary office trailers is a Type 2 Action under SEQRA and that site plan approval is given for the three office trailers with the condition that if they have not been removed by the end of the calendar year, the applicant has to come

before the PB for an extension or removal and that the trailers have to be kept in such condition as is acceptable to the Building Inspector. Approved unanimously.

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

Mr. Huddleston advised the applicant to get the site plan application for the building to the Building Inspector as soon as possible because it will have to be sent to the County Planning Department for a 239 Referral and they will have 30 days to review it.

Mr. Hoffman said he will describe to the applicant the minimum that is required for a site plan under the code.

**Heritage Custom Homes – 18.1-127.21 – 59.6 +/- acres**, 5 lot subdivision located on Clark Rd in the RU zone with an AQ3 overlay. DEC Cricket frog review, archeological water testing, scope of EAF, project update.

Mr. Halloran said the project is now a 5 lot subdivision with all of the units on Arcadia Road.

The applicant said that Ecological Solutions is doing a study on cricket frogs and will finish in May. It was noted that the applicant will set up a site walk with the Planning Board.

Mr. Garling asked the PB if it wants a cultural survey done and said it should be requested now. Mr. Huddleston said he wants the applicant to do a Phase 1 Cultural Study.

Mr. Hoffman said the project is considered a small scale development and that the code exempts small scale developments. That exemption may extend to water testing, he said. The PB said it wants an interpretation from the Building Inspector as to whether water testing is required in this instance.

Mr. Hoffman said the parent parcel will be subdivided at a future date.

The applicant said the conservation easement is going back in.

Mr. Lupinski asked if the applicant will need a waiver on one lot from the requirement of 300 ft. of frontage on a state road. Mr. Halloran said he is unsure and will take a closer look.

**Dickerson – 13-1-69 – 92.90 acres, 6 lot subdivision** located on Dunmore Lane, Gibson Rd., and Route 17A in the RU zone with an AQ3, AQ6 and scenic road corridor overlay. Consideration of negative declaration and possibly set for public hearing.

Representing the applicant: Steve Esposito & Amador Laput

Mr. Esposito said that the applicant wants to reduce the project to six lots. The property has a density of 29 lots and may be further subdivided at a later date, he said.

Mr. Garling said the applicant is offering this as a unmapped state wetland and is offering the 100 ft. buffer and providing a conservation easement. He noted that in a couple locations they are putting a house next to the 100 ft. buffer. He said that the property owner of Lot #6 will not be able to develop his rear yard if the DEC accepts this as a buffer and added that a small portion of the driveway for Lot #6 goes through the buffer. Mr. Garling suggested that the PB may re-locate the house further up the hill or ask the DEC to grant some of the wetland area as useable.

Mr. Esposito said the PB decided where the house was to be located because of Route 17A. “We have no problem moving the house but don’t want to move the house and find out we are not in compliance with rural sighting requirements. Ms. Cleaver said she would like to see the house moved because the septic is about 30 ft. from the wetlands. Mr. Huddleston said he recalls that there was a lot of rationale for putting the house where it is.

Mr. Esposito said the applicant is putting the wetlands in conservation easements. Mr. Hoffman said that the County had some comments but that they have been addressed.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Mr. Andrews, the Town of Goshen Planning Board gives a Negative Declaration in terms of SEQRA on the Dickerson application for a six lot subdivision. Approved 4-1.

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

**VOTE BY PROPER MOTION**, made by Mr. Lupinski, seconded by Ms. Cleaver, the Town of Goshen Planning Board sets a public hearing on the application of Dickerson for May 6, 2010. Approved unanimously.

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

**Zalunski application – 20-1-8**

Mr. Laput asked to discuss the condition the PB put on the project’s resolution stating the applicant has to create a drainage easement within 60 days of filing the resolution. He said a drainage easement will not be created in Phase 1, that drainage will be a part of Phase 2 which the applicant will bring to the PB later in the year. He said he is requesting that the condition be removed from the resolution.

Mr. Golden said the applicant is asking for the withdrawal of Condition #4 because it doesn’t apply to this particular application. He said that “this alters nothing with respect to the time frames under local laws and the moratorium with respect to their approvals.”

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board removed Specific Condition #4 on the resolution pertaining to Zalunski. Approved unanimously.

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

**ADJOURNMENT:** A motion to adjourn the meeting at 9:25 p.m. was made, seconded and approved unanimously.

Ralph Huddleston, Chair  
Notes Prepared by Susan Varden