

APPROVED MINUTES

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

April 16, 2009

Members Present:

Reynell Andrews
Lee Bergus
Susan Cleaver
Ralph Huddleston
John Lupinski
Raymond Myruski

Absent:

Mary Israelski

Also Present:

Neal Halloran, Building Inspector
Ed Garling, Planner
Dennis Lindsay, Engineer
Kelly Naughton, Esq.

Conob Realty – 11-1-26 – 1.8+/- acres, located on Route 17M and Arcadia Rd. in the CO zone with an AQ3 overlay. Special use and Site Plan Approval.

Representing the applicant:

Peter Cirillo

Mr. Halloran said the application is for an office building and new warehouse and that the property has three front yards, Route 17, Route 17M and Arcadia Road.

Peter Cirillo said that the 2.2 acre site is that of the old Goshen School Music building located at the intersection of Arcadia Rd. and Route 17M. The applicant is proposing a 5,850 sq. ft storage building for the purpose of storing event planning equipment. It is a permitted use. A new septic system has to be put in for the existing office building. He noted that the site is very tight. He said the applicant will be using retaining walls along Arcadia Road at the back corners of the building and along the driveway to meet some of the grading and elevations of the site. He said that at the request of the PB the applicant did a landscape plan in an effort to hide the building. The site plan shows 8 ft x 20 ft. storage units on the outside of the building, with additional landscaping to shield the storage units from Route 17. Ten existing parking spaces are shown, along with six future spots if needed. The applicant will install a 6 ft. vinyl fence to shield the building. The applicant wants to put a business sign along 17M. To take care of the storm water, the applicant has designed a system using swales, French drains and a dry swale. The applicant showed a color photograph of the proposed building.

Mr. Huddleston asked for public comment. There was none.

Mr. Lindsay said that some grading and drainage issues have been discussed with the applicant and can be worked out. He said because there is less than one acre of disturbance, a full SWPPP will not be required. He said a few details need to be worked out on the erosion sediment control plan, but that he is confident all of these things are workable.

Mr. Garling said he hasn't heard from the DOT on whether the driveway is adequate for the use proposed. He said that while the sight distances appear adequate, it has to be determined by the DOT. The PB must make a determination that the fence satisfies the Town Code. He said the site has adequate parking and that shadow parking is shown on the site plan. Mr. Garling said that while they haven't heard back from the Orange County Planning Department, it is past the 30 days within which to respond. He said that he believes the site is more than adequately screened, stating that while the building might be able to be seen, the storage units will not. Mr. Garling had prepared a negative declaration for review.

Mr. Bergus was told that the eight storage units are all uniform, all are black and 20 ft. x 8 ft. and will be moved in and out.

Mr. Myruski said that the vinyl fencing should be a color that blends in with the building. Owner Mike O'Brien agreed with Mr. Myruski and said the fence will be the same color, or as close as possible, to the beige color of the building. The purpose of the fence is for security, he said. It will subdivide the front from the back of the property and will be located along Route 17 and behind Arcadia Rd.

Mr. Lindsay suggested that a condition of approval be that the storage units be locked into the specific spaces as shown on the drawing.

Mr. Cirillo said he has a letter from the DOT stating that the application will not impact their proposed changes to the overpass. Mr. Huddleston asked for a copy of the letter for the files.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board determines that the project of Conob Realty as proposed will not have a significant impact on the environment. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Town of Goshen Planning Board determines that the fence as proposed on the application of Conob Realty is sufficient to satisfy the Town Code. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Bergus, the Town of Goshen Planning Board closes the pubic hearing on the application of Conob Realty. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Town of Goshen Planning Board approves the application of Conob Realty subject to the following conditions: compliance with Riddick memo dated 4/10/09, Garling memo dated 4/7/09, that the storage units may only be located in the spots shown on the plan and that because this plan was reviewed with the warehouse being an accessory use to the front building, any change in that would have to come back to the PB for approval. Approved unanimously.

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

Tirelli - 17-1-90, 3.80 +/- acres, located at 108 Maple Avenue in the RU zone with an AQ3 & scenic road corridor overlays. Amended site plan & possible final approval of the pond.

Mr. Lindsay said he has reviewed the drainage proposal and believes that the drainage structure, now designed as a riprap structure 27 ft. wide by 1.5 ft. deep, is satisfactory. He said however, that the outflow structure needs to be realigned so that it is more in keeping with the line of the storm water flow. Mr. Lindsay said he did not do an analysis of the neighboring driveways.

Ms. Naughton said that the PB can assume lead agency status on this application, that it be typed as an unlisted action and that a 239 Letter was sent out and returned with “local determination” noted. She said it is a minor site plan so a public hearing is not required, but is up to PB discretion.

Mr. Lupinski said he is concerned about the neighbors downstream. Mr. Lindsay said that when there are heavy rains, the pond is not of sufficient size that it will help by holding the water, saying it will simply flow through the pond, although if the pond is low, it could help some. The only thing the engineer addressed was the outflow structure which had failed and had carried soil with it, depositing it on the neighbor’s property, he said. This arrests that situation but it does not change the hydraulics downstream or upstream. The only study that was performed was of the watershed that was contributory towards the pond to determine how much flow could potentially come into the pond and then design an outflow structure that could carry that flow without failure. This will prevent a washout, he said, but will not improve or exacerbate any condition that now exists downstream.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Mr. Bergus, the Town of Goshen Planning Board declares itself lead agency on the application of Tirelli. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Mr. Andrews, the Town of Goshen Planning Board types the application of Tirelli as an Unlisted Action. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Bergus, the Town of Goshen Planning Board declares that the application of Tirelli, as proposed, will have no negative impact on the environment. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Town of Goshen Planning Board determines that no public hearing is necessary on the application of Tirelli, as proposed. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Mr. Andrews, the Town of Goshen Planning Board approves the amended site plan of Tirelli conditioned upon compliance with Riddick memo dated April 10, 2009. Approved unanimously.

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

CONTINUED PUBLIC HEARING

Owens Road/Goshen Meadows 10-1-10.22 & 10-1-8 – 131.4 +/- acres, 33 lot subdivision, located on Owens Rd in the RU zone with an AQ6, AQ3, scenic road corridor, and stream & Reservoir overlay. Preliminary Subdivision Approval.

Present for the applicant: Gardiner Barone, Esq.

Robert Fink serves as attorney for the PB on this application.

Mr. Huddleston asked for public comment.

Ann Blake, 51 Owens Rd., asked where the entrance and exits are for the property and commented that if there are 33 homes, with two cars per house, there will be at least 66 cars. She asked if the PB has taken this into consideration in terms of traffic on the road.

Mr. Barone said the applicant is proposing one road exiting onto Owens Rd. and “we provide for the continuation of the development road onto the Strong property.” He said the applicant’s engineers and consultants think that using the old trolley line as a second means of ingress and egress is unnecessary considering that the 31 lots will not cause a sufficient amount of traffic to warrant any signalization of the intersection. He said that there has been no indication that the project will create an undesirable traffic flow situation on Owens Rd.

Mr. Bergus asked if the applicant will consider the trolley line as an emergency means of access. Mr. Barone said that is no longer being looked at as an emergency access, that it will be maintained by others, and that there are no plans to improve it.

Jean Strong of Owens Road asked for clarification about another road through her property.

Mr. Barone told Mrs. Strong that the applicant is not building a road through the Strong property. He said that the Town has asked the applicant to have a road that goes up to the Strong property line, so that if the Strongs develop their property, they will have a means to connect with the applicant's property.

Ms. Cleaver asked about the right-of-way to Mrs. Strong's property. Mr. Barone said that they have researched the title records, found that the easement, while recorded, is not able to be plotted because there is not a sufficient deed description. The applicant proposes to grant to the Strongs the right to go down the existing trolley right-of-way and onto the PASNY power line right-of-way to access their property in the back. The easement that is recorded that gave the Strongs access to this lot, Mr. Barone said, is a limited easement for the purpose of carting wood, it is not an easement for development. The Strongs have asked for the right to have their livestock pass along the northerly section of the applicant's property, and the applicant is agreeable, he said, but it would not be a permanent right-of-way, it would be only for so long as the Strongs own both of the parcels, he said. The Strongs will have the right to go in and maintain it, but the applicant wouldn't have the obligation to maintain it for them, Mr. Barone said.

Ms. Cleaver asked about the houses proposed in the open space area. Mr. Lindsay said that because of the zone change to the property, the applicant went to 31 lots and decided, in order to recoup some of their costs, to locate two of the houses in the open space area. It is a matter for the PB to consider whether this conflicts with the conservation easement, he said.

Mr. Lindsay talked about Section 8313H of the Town Code that states that a subdivision containing 20 or more lots shall normally have at least two connections with existing streets, where the existence of undeveloped or adjoining properties under special circumstances make this requirement impracticable, stub street connections to adjoining properties shall be reserved for future dedication of connections if deemed necessary by the PB. The applicant, Mr. Lindsay said, has proposed the road into the property, a stub connection to the Strong property, and has presented a sketch showing how a road developed through the Strong property is feasible.

Mrs. Strong asked if the easement to their property in the rear, along the trolley right-of-way, will negate their developing it. Mr. Huddleston said he didn't know.

Mr. Huddleston asked Mr. Fink if the applicant can give the Strongs the right to use that easement as access in the future. Mr. Fink said it can be, with the applicant's consent.

Mr. Halloran said that the Town Code calls for right-of-ways up to the property line and roads built up to the property line with a T turn, if there is an undeveloped piece of property next to a proposed subdivision. Here we are looking at five road connections, he said, but the Code says the PB can waive that if they don't want to have all of the road

connections to all of the properties that could be required. Mr. Barone said he disagrees that there is a requirement that a stub road be built out to all of the adjoining undeveloped parcels.

Mr. Fink said that the general waiver provisions in Section 8332 apply. The PB may waive, when reasonable, any requirement for improvements, for the approval, approval with modifications, or disapproval of subdivisions submitted for its approval. Any such waiver which shall be subject to appropriate conditions may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety and the general welfare, inappropriate because of an adequacy or lack of connecting facilities adjacent, or in proximity of, the subdivision or in conflict with the environmental, agricultural, scenic or historical resource protection purposes in Chapter 97 of the zoning law.

Mr. Huddleston said he interprets the provision as saying that if the PB feels it is really inappropriate, it can modify it.

Mrs. Strong asked if there would be a problem for emergency vehicles to get in and out using the trolley lane. Mr. Huddleston said it would have to be improved at least enough for emergency vehicles to come in and out.

Mr. Fink said he understands that the Town Board will not accept a road as a town road when other people have easements over it. It would make sense that anyone with an easement over a Town road would surrender that easement, he said.

Mr. Barone said he thinks there is a provision in the public highway law that extinguishes easements when a town or municipality creates a public right-of-way over an easement that multiple parties have the right to use. He said he will do some research.

Mr. Huddleston said he believes he would want to use the waiver to eliminate the stub road to every individual parcel. A stub road to five or six properties is excessive and not practical, he said.

Mr. Huddleston asked PB members their opinion of one road access for the 31 homes. Mr. Bergus said there needs to be a stub road for future planning but also emergency access on the trolley lane now. Mr. Andrews, Mr. Myruski, Ms. Cleaver and Mr. Lupinski all voiced agreement. Mr. Fink said it needs to be clear why an emergency access is needed. Mr. Huddleston said that it is because of the possibility of something happening that blocks the road causing an obstruction where you can't get out, and a dire emergency such as a heart attack or a fire in the rear of the property. It was noted that the PB agreed that an emergency access or another road is needed.

Mr. Huddleston asked PB members their opinion of the proposal to build two houses in the rear of the parcel in the open space area near the river. One lot is 36 acres and the other is 26 acres and the owners will be responsible for the open space area in the center. Mr. Bergus, Mr. Andrews, Mr. Huddleston, Mr. Myruski and Mr. Lupinski all said that they are okay with the location of the two houses. Ms. Cleaver stated her concern that there will not be any open space other than wetlands and said she wants ESA signs put up in the conservation easement. Mr. Barone said it will be taken under advisement. It was noted that the applicant will have to pay the parkland fees.

Mrs. Strong asked if the PB has considered how the Walkkill floods. Mr. Barone pointed out the flood plain on the site plan and said the houses are away from and higher than the flood plain.

There was discussion about opening up the easement to the Strong property. Mr. Huddleston told Mr. Barone that the PB is asking the applicant to consider changing the easement. Mr. Fink suggested that if the applicant opens up the easement, the PB will not be looking at an extra stub road and Mr. Huddleston agreed that to him it would satisfy the stub road requirement. Mr. Barone said it will be taken under advisement.

Mr. Lindsay told the PB that the applicant hasn't complied with the new water protocols, "although they are not so far off", he said. The number of wells they tested would give them approval for 24 lots, he said. The applicant could accept 24 lots for now until they do additional testing, or they could go for the additional testing or they could ask for a variance, Mr. Lindsay said. The question is do they have to comply, he said. Mr. Barone said it is his position that the new water protocols don't apply. Mr. Fink said that this is something that will come up on every pending application and that he has sought the opinions of Town attorney Dennis Caplicki and Planning Board attorney Rick Golden to determine how the Town and PB should treat all applicants in this situation.

Mr. Fink added that the Building Inspector makes a call on it in the first instance. Then the applicant will be able to appeal that decision to the ZBA. Mr. Halloran said that his opinion as Building Inspector is that the applicant has to comply with the new code, but he hasn't decided if there is a waiver possible from the PB. He said he will file a decision in writing this week.

Mr. Fink advised the PB to keep the public hearing open to the PB's next meeting.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver, the Town of Goshen Planning Board continues the public hearing on the application of Owens Road/Goshen Meadows to May 7, 2009. Approved 5 to 1.

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

Hendler - Possible abandonment of application pursuant to the Town Code

Mr. Huddleston said that the Building Inspector has been told that there is no movement from the applicant on paying the escrow fees. It was noted that the applicant has been given adequate time to consider.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Myruski, the Town of Goshen Planning Board revokes the preliminary approval on the five lot subdivision of Hendler and considers it abandoned. Approved unanimously.

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

ADJOURNMENT: At 9:45 p.m. the Planning Board moved to go into Executive Session to discuss a personnel matter concerning employment of a specific Planning Board member.

Ralph Huddleston, Chair
Notes prepared by Susan Varden