

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

May 6, 2010

Members Present:

Reynell Andrews
Lee Bergus
Susan Cleaver
Ralph Huddleston, Chair
Mary Israelski
John Lupinski
Raymond Myruski

Also Present:

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

Minutes – The Planning Board approved the minutes of the meetings of March 4, 2010, April 1, 2010 and April 15, 2010.

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. Bog Turtle Study.

Representing the applicant: Steve Esposito

Mr. Halloran said that the two estimates on a bog turtle study were expensive and that the PB had decided at a previous meeting to table the matter.

It was noted that the applicant's bog turtle study had cost approximately \$6,000 and that the two estimates given the PB ranged from \$17,000 to \$24,000. It was mentioned that the two biologists who gave the estimates may have been looking at the entire wetland #10 as being bog turtle habitat but that the applicant's expert, Jason Desoro, determined that only a portion of the wetland area is bog turtle habitat.

Mr. Esposito said that the applicant would like the PB to accept the DEC approval or the U.S. Fish and Wildlife approval of its report on bog turtle habitat as acceptable. Mr. Esposito said that the U.S. Fish & Wildlife protocol is to do a pre-construction survey which in the applicant's case is a water line, put in a silt fence, have a certified biologist survey the area within a 300 ft. buffer area and if there is a turtle there, pick them up and move them back into the habitat. If no turtle is present, the applicant installs the pipe line.

Mr. Golden read Condition #11 of the Resolution as “Prior to Final Approval, the PB will engage an expert, at the expense of the applicant, to evaluate wetland 10 for the presence of bog turtles. The applicant shall comply with such related conditions imposed based upon the results. Until such evaluation is completed and reviewed, there shall be no disturbance.”

Mr. Golden said that the PB can change the condition, stating that it will accept a letter from the NYS DEC or the U.S. Fish and Wildlife with respect to the presence of bog turtles and that the applicant shall comply with whatever conditions are imposed.

Mr. Huddleston confirmed that “all that is occurring in wetland #10 is the crossing with a pipe.” Mr. Esposito said that it is “not even a crossing, it is a well line within the 300 ft. buffer. We get into the wetland but don’t cross it.”

Ms. Cleaver suggested that when you dig to put the pipe in, it changes the hydrology. Mr. Huddleston agreed that it could, “but we already accepted that they can put a pipe there, we are talking about whether we need a bog turtle study before that.”

Mr. Huddleston asked, “If the PB confirms the U.S. Fish & Wildlife methodology for that type of installation, if our engineer can confirm that that is how you handle that kind of piping in a buffer of a wetland and then get the applicant to pay for our selected consultant to go out at installation and watch and oversee the implementation of that, would the PB accept that or do we still want to do a bog turtle study?”

Ms. Cleaver said she is not a bog turtle expert but knows that the presence of bog turtles can easily be missed.

Mr. Golden said the Resolution says that the applicant is required to comply with any conditions that result from that bog turtle study, it doesn’t mean the applicant can’t go in there. They will place some conditions to make sure it is appropriate, safe and protected, he said. “It is being suggested that our expert confirm that Fish & Wildlife has this protocol that has been presented to you, and if it does, then hire a bog turtle specialist to watch them while they do it to make sure they are doing it in accordance with the Fish & Wildlife protocol.”

Mr. Hoffman said that June 15th will be the last day this year to check for the presence of bog turtles.

It was noted that the DEC has a certified list of bog turtle experts and that the expert the applicant used, Jason Desoro, is on the DEC list. Mr. Huddleston said that he has used him professionally himself and has confidence in his work.

Mr. Huddleston said that the condition is saying that the PB wants another expert to check the applicant's expert at the applicant's expense. He said he'd be comfortable with having the applicant comply with what the U.S. Fish & Wildlife says has to be done and treating it like bog turtle habitat. Mr. Huddleston said that whatever they would allow you to do in bog turtle habitat you have to do to the letter of the law and the PB could have its expert overlooking the implementation of what the U.S. Fish & Wildlife says has to be done.

Mr. Bergus said that Jason Desoro was a qualified expert on the DEC list, so there is no point in getting another qualified person from the list and doing it again. He agreed that it should be verified at construction.

Ms. Cleaver asked if this has been approved at the DEC. Mr. Esposito said, "No, we are at the DEC right now." Ms. Cleaver said she would want to make sure the PB has a letter from the DEC and from U.S. Fish & Wildlife saying that it approves the pre-construction survey a couple weeks before anything takes place.

Mr. Golden said he no one at the DEC or U.S. Fish & Wildlife will write a letter to that effect and that it has been his experience that the letters don't come and asking an applicant to do it means they can't get anything done.

Ms. Cleaver said she will agree with the pre-construction, making sure there are a lot of checks in place and would like the PB's consultant Karen Schneller-McDonald to look at it to see when it should be done.

Mr. Golden said that Mr. Hoffman will check with the U.S. Fish and Wildlife to confirm the protocols and then the PB will allow them to pick someone from the DEC list to watch to make sure that what is being done is in accordance with that protocol.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Mr. Bergus, the Town of Goshen Planning Board approved amending Condition #11 of the Preliminary Subdivision Resolution of Heritage Estates in accordance with the new protocol. Approved unanimously.

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

Hambletonian – 8-1-12.221 – 23.4 +/- acres. Request for extension of preliminary approval.

Representing the applicant: Applicant Joe Neuman

Mr. Neuman said that he is still discussing water and liability with the Town of Goshen and is requesting a six month extension on his preliminary approval.

Mr. Golden said that because there had been no request to have Conditional Final prior to this past January, the application is subject to the new zoning code. Mr. Neuman said he is aware of that.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Myruski, the Town of Goshen Planning Board approves a six month extension of the preliminary approval for the application of Hambletonian. Approved unanimously.

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

Mr. Golden said the six month extension is to November 19, 2010. The PB has a meeting on November 18, 2010.

Dickerson – 13-1-69.2 – 83.6 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. Possible preliminary subdivision approval.

Representing the applicant: Amador Laput, Engineer

Mr. Laput said that this was previously before the PB as a 23 lot subdivision, a 16 lot subdivision and is now a six lot subdivision.

The outstanding issue is the wells, Mr. Laput said. He said that three test wells were done on the previous 23 lot subdivision application. He said he wants to work with the Town Engineer to have one of the wells designated the test well, with the other two designated as the monitoring wells.

Mr. Hoffman said that the well testing was done in 2006 and 2007 and that the three wells were tested one at a time. Under the new zoning code they are required to pump at least 250% of the maximum daily demand, he said. The Town would like the applicant to pump Lot #6 (the largest lot) and utilize the other two as monitoring wells along with other wells on Dunmore Lane and across the street at BOCES, in order to circle the site.

Mr. Laput said he wants to get the well plan approved by the Town and proceed.

Brian Lienemann who resides at 58 Route 17A, recently renumbered as 2399 Route 17A, said he doesn't want his well to fail and would like to be part of the testing.

Christine Sullivan, of 59 Route 17A, now designated as 2410 Route 17A, said that water is also a big concern with her, stating that within the past four years her well went dry. She is concerned with the impact on her well.

Mr. Laput said he will include both the Lienemann and the Sullivan well on the list of monitoring wells. He said he will also monitor the Pahlen well, south of Dunmore Lane, their two existing test wells and the well at BOCES.

Mr. Lienemann said he had heard that someone was bringing utilities across his land. Mr. Laput said it wasn't this development, that "all of our development now is on the other side."

Mr. Hoffman said the next step is for the applicant to prepare the proposal for well testing for the Town's review, identifying all of the lots that will be monitored, etc.

Mr. Garling said that the only remaining planning issue is street trees. He said that after visiting the site, he recommends three to four street trees where there is an open space along 17A and in the 200 ft. area between the three driveways. He identified some dead trees and suggested re-planting. Mr. Huddleston suggested that Mr. Garling meet with the applicant to put together a street tree plan. He said he'd like street trees wherever they can be put as long as they don't cause a problem for sight distance.

Mr. Lienemann asked about the traffic impact stating that it takes 20 minutes to get out of his driveway onto Route 17A. Mr. Huddleston said he doesn't think an additional six homes will make it any worse and that the increased construction traffic will have a short term impact. Mr. Lienemann asked to confirm that there will not be any utilities coming across his property. Mr. Laput said "No."

Mr. Huddleston asked for other questions from the public. There were none.

VOTE BY PROPER MOTION, made by Mr. Israelski, seconded by Mr. Bergus, the Town of Goshen Planning Board closed the public hearing on the application of Dickerson. Approved unanimously.

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

Mr. Golden said the Orange County Planning Department determined that the application should be a local determination, but had recommendations. He read the County's comments.

1. Large lots such as what is proposed may carry a greater risk in today's housing market. Smaller houses sited closer to the road and each other offer a social benefit, reduced costs, less impervious driveway surface and can potentially preserve additional open space.
2. Due to the unusually long driveways, the County suggests considering the use of pervious materials in driveway construction.
3. Permanent signage indicated the location of the proposed open space conservation areas, the 100' wetland buffers and the NYS DEC wetlands should be indicated on design plans as well as on prominently displayed on-site signage during the construction and post-construction periods, especially since all of the proposed lots possess one or more of the above features.

Mr. Golden said there are a few findings that the PB must consider. He read the findings as:

Finding #1 - That the PB finds, in accordance with the requirements for the Scenic Corridor Overlay District, that this project will not result in the degradation of scenic character; will be aesthetically compatible with its surroundings; will minimize the removal of native vegetation, except where such removal may be necessary to open up scenic views and panoramas; and will locate and cluster buildings and other structures in a manner that minimizes their visibility from the road to the extent practical.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Mr. Andrews, the Town of Goshen Planning Board adopts Finding #1 on the Major Subdivision for Dickerson as read by Mr. Golden. Approved unanimously.

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

Finding #2 – The PB hereby waives the Environmental Control Formula as permitted by Section 97-18(D)(3) because the applicant demonstrated, through site-specific soils testing and analysis to the satisfaction of the PB and the Town Engineer, that the lots were appropriately sized and designed to accommodate the individual septic systems proposed.

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Ms. Israelski, the Town of Goshen Planning Board adopts Finding #2 on the Major Subdivision for Dickerson as read by Mr. Golden. Approved 6 to 1.

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

Mr. Golden said that the applicant will be advised in the resolution that prior to issuing Final Conditional Approval the PB will determine the appropriate bonding amounts and whether the development creates a need for recreation property and if so whether the PB will request recreation fees in lieu of parkland.

Mr. Golden said that in addition to the general conditions, there are nine specific conditions which he read as follows:

1. The applicant must comply with all the requirements of the Goshen Town Code, including, but not limited to, Section 97-29(G) through (J) except where site features are screened from the road.
2. All wetland delineations and concomitant impacts to the application are subject to all regulating authority that exists at the time of the consideration of Final Approval of its application, including but not limited to the jurisdiction of the New York State Department of Environmental Conservation. To the extent that any such new delineation or regulation impacts the proposed plan as approved herein, the applicant must conform its application accordingly prior to final approval.
3. Wetlands and any required buffers are to be marked on individual lots prior to Final Approval. The applicant must use proper environmentally Sensitive Area (“ESA”) signage where applicable and have such signage in place prior to any site disturbance. The signs shall be installed at such locations and height as determined by the Town Engineer in the field.
4. The applicant must mark the clear limits (area of disturbance) shown on the plans during construction to assure the objectives of open space conservation are met.
5. The applicant shall place a Conservation Easement over the lots as indicated in the plans, enforceable by the Town, which shall be drafted to the satisfaction of the Town Attorney as to form, including ongoing maintenance standards that will be enforceable by the Town against an owner of open space land to assure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.

6. The applicant shall provide deed restrictions, acceptable to the Planning Board attorney as to form and proof of filing for Lot 6, which incorporate by reference the Scenic Road Corridor Overlay restrictions contained within Section 97-29 of the Town Code.
7. Prior to final approval, the applicant shall submit plans showing all tree varieties, condition and quality proposed for street trees required along the side of the existing roads, subject to the approval of the Planning Board. These trees must be bonded to guarantee survival of at least one growing season. The precise placement of trees in relation to road pavements, sidewalks and utilities shall be approved by the Town Engineer and Highway Superintendent prior to final approval.
8. Pursuant to the memo dated March 26, 2010 from Riddick Associates, the following corrections must be made to the plans prior to final approval: (a) Pursuant to Section 97-20(G), the applicant must provide the required table containing the impervious surface coverage and include all roadways, dwelling units, driveways, wetlands, watercourses and floodplains. (b) the applicant shall confirm that the design of the proposed water wells conform with 10 NYCRR Appendix 5-B, "Standard for Water Wells," and that the requirements for well casing, grouting and diameters are met. (c) The applicant shall investigate the feasibility of several low impact development techniques, including individual infiltration systems and Rain Gardens to capture and treat runoff from the proposed impervious surfaces. (d) The applicant shall clarify Note 6 on Sheet S-1 and advise if a New York State Department of Environmental Conservation Wetlands Disturbance Permit is necessary. (e) The applicant shall clarify the note regarding temporary slope grading easements, as they may not be necessary.
9. Prior to final approval, the applicant shall comply with the Town Water Testing Protocols to the satisfaction of the Town Engineer.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Town of Goshen Planning Board accepts the Resolution of Conditional Preliminary Approval for the Major Subdivision for Dickerson as read and modified by Mr. Golden. Approved unanimously.

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

Goshen Properties 13-1-34.1, 13-2-4, 13-2-5, 13-2-6 & 13-2-7 – 39.7+/- acres.

Mr. Halloran said that the public hearing was to be held this evening but it was not noticed, so it will be scheduled for May 20, 2010.

Mr. Huddleston asked if anyone from the public wanted to make public comment tonight. There was no public comment.

Mr. Lupinski said that his wife contacted the police department and got a listing of some of the violations on the road. He distributed the letter to PB members from Police Chief Dennis Marsh dated May 5, 2010.

Mr. Golden told the PB that there is a note on the prior subdivision approval plan that says the applicant could not change the driveways except if they obtain approval of the Highway Superintendent, who has said “no”. Mr. Golden said that if the applicant is asking for a change of driveways, it may be that they need an amended subdivision in order for them to change the note. Mr. Golden said he is going to make the applicant aware.

Mr. Golden suggested that the PB ask the Highway Superintendent to provide the specific reasons as to why he would not want the driveways to be changed and then consider those specific reasons.

Ruby Construction – 18-2-13 – 2.1 acres located on Route 17A

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Ms. Cleaver, the Town of Goshen Planning Board sets the public hearing for Ruby Construction for May 20, 2010. Approved unanimously.

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

Miscellaneous

Ms. Cleaver asked if it would be improper for the PB to write a letter to the Army Corp. of Engineers asking them if they could visit the Reiger site to make a determination about the wetlands. Mr. Golden said there would be nothing improper about it.

Ms. Cleaver said that although she has requested it, the PB has no proof that the application actually got to the Army Corp. of Engineers and that it is a concern of hers.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Ms. Israelski, the Town of Goshen Planning Board approves the sending of a letter to the Army Corp. of Engineers asking if they received an application and map, and sending any of the wetland data that it has to the Army Corp. and asking them to come out and make a determination. Approved unanimously.

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

ADJOURNMENT: A motion to adjourn the meeting at 8:50 p.m. was made, seconded and approved unanimously.

Ralph Huddleston, Chair
Notes Prepared by Susan Varden