

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, NY 10924
October 18, 2012

Members Present:

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

Also Present:

Neil Halloran, Building Inspector
Sean Hoffman, PB Engineer
Kelly Naughton, PB Attorney

Absent: Giovanni Pirragalia

The PB meeting was opened at 7:30 pm by Chair Ralph Huddleston.

The minutes of the PB meetings of June 21, 2012 and July 19, 2012 were approved.

Possible Extension or Abandonment of Applications pursuant to Town Code

Heritage Estates – 8-1-9.22

Ms. Naughton read a letter from the applicant explaining the work that has been done and requesting two 90-day extensions of its Conditional Final approval which expires November 15, 2012.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board grants an extension of the Conditional Final Approval on the application of Heritage Estates to April 18, 2013. Passed unanimously.

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

Hambletonian Park – 8-1-12.221

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Andrews, the Town of Goshen Planning Board grants an extension to April 18, 2013 on the application of Hambletonian Park. Passed unanimously.

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

Goshen Sports Complex – 11-1-25.22

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board grants an extension of site plan approval to April 18, 2013 on the application of Goshen Sports Complex. Passed unanimously.

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

Public Hearing

Woodcrest (aka Kaprielian) -4-1-9 77+/- acres, small scale two-lot subdivision located on Woodcrest Lane and Farmingdale Road, in the RU zone in the AQ3 and Scenic Road Corridor overlay districts.

Representing the applicant: David Egarian, Engineer

Mr. Egarian gave a description of the project. He said it involves a 75 acre property. There are two lots, one is 3.27 acres, the other 4.5 acres, with the balance of the property, 67 acres, located across the street. The applicant did 72 hour well testing and found that the pumpage did not affect any of the area wells, seven wells were monitored within a 1500 ft. radius.

Mr. Hoffman said that the applicant was not required to do well testing but did so anyway in compliance with the protocols. The testing was done over the Labor Day holiday. They pumped the well at 5 gpm which is about seven times what is necessary for a two lot subdivision. These two homes will use less than 1 gpm, he said. The plan has not changed since the PB last saw it, Mr. Hoffman added.

Mr. Huddleston asked for comments from the public.

Mary Israelski of Woodcrest Lane, said she has nothing against the two lot subdivision but would like to make it better. There is a natural catch basin that has been historically draining water underground, she said, and asked the applicant to put the driveway on a different side of the rock wall because it will help to not disturb the natural catch basin and will be less disruptive to her home next door. She thinks the house should be pushed back further from the road to fit with the character of the neighborhood, stating that most of the houses are set back 100 ft. She asked the applicant to change the

driveway location, so the two driveways are not so close together. She said she would welcome an entrance design at the corner, recognizing that this would be above and beyond what is required of the applicant.

Mr. Huddleston said that it would make sense to keep the natural culvert that has been functioning along the wall and not disturb the historical drainage and asked the consultants and applicant to look into it. He also asked the consultants to look at moving the driveway.

Ms. Israelski said that the water testing was not done at the perfect time with the baseline taken after two weeks of no rain during the Labor Day weekend and the pumping beginning during pouring rain when the kids were back at school and no one was home, but she thanked the applicant for testing the neighboring wells.

Ms. Cleaver asked the applicant to fill in the trees where there are dead trees. Mr. Egarian said he would take a look at that. She asked that the house be moved backed, out of sight from both scenic roads. Mr. Huddleston also asked the applicant to review it with the Town Engineer to see if there is an engineering advantage or disadvantage. The applicant agreed.

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Andrews, the Town of Goshen Planning Board closes the public hearing on the application of Woodcrest. Passed unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Andrews, the Town of Goshen Planning Board accepts the water testing protocol and test results on the recommendation of the Town Engineer on the application of Woodcrest. Passed unanimously.

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

Orange County Turf – 21-1-83 & 21-1-84 23.9+/- acres located off Pulaski Highway & Pumpkin Swamp Road in an Agricultural zone. Special use permit, site plan approval, lot merger.

Representing the applicant:

Ryan McGuire, Engineer

Mr. McGuire said the applicant is proposing a compost facility on one acre of the site. There is no road frontage on Pulaski Highway, he said, and the applicant has several easements crossing the adjoining properties into the site and is researching with his attorney his legal rights to that. There is no resolution of the matter at this time, he said.

Mr. Hoffman said that getting access to the site is a threshold issue and suggested that it will not be worth the time and expense to address the engineering issues if the applicant can't settle the access issue. Mr. Huddleston agreed.

Mr. Golden said the applicant hasn't shown they have fee ownership or some other right of access to their lot. He told the PB that if it closes the public hearing it must make its decision in 62 days and if there is not enough information to make a positive decision, then the PB will have to deny it and the applicant would have to start over again. The PB has kept the public hearing open for several months with no resolution of that issue, he said. There is no need to keep the public hearing open, unless the PB thinks it will receive different public comments. The applicant can waive the 62 day requirement, he said.

Mr. Huddleston asked for public comment.

Joe Helman, the applicant's grandson, said that the road has been in the family for eighty years and that everyone uses the road every year. He said he thinks it is unfair to his grandfather to be denied, when he has been there since 1937. He said he thinks there should be an investigation to find the proof.

Mr. Golden said that it is not the role of the PB, but the role of the applicant, to provide proof that they have legal and adequate access to do what they are asking the PB to approve. They have to show proof of access, he said, stating that in this application, they need more intensified use of the road and there is a dispute as to whether or not they have the ability to widen it in such a fashion that it would give them that more intensified use.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board closes the public hearing on the application of Orange County Turf. Passed unanimously.

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

Mr. Huddleston said he would like a resolution of the access issue first before the PB and consultants spend additional time. Mr. Golden asked Mr. McGuire if the applicant is willing to waive the time frame, stating that otherwise the PB will be forced to make a decision in sixty two days. Mr. McGuire said he could not waive the time frame at this time. Mr. Golden said the application will be put on the PB agenda within the sixty-two

day period and that the applicant will either waive it previous to that, or at that time the PB will make its decision.

Bristol Motors 20-1-25.11 – 4.10 +/- acres, site plan located on State Route 94 in CO zone with an AQ3 overlay.

Representing the applicant: Susan Plass, Surveyor

It was noted that the applicant received variances relative to setbacks from the Town Zoning Board of Appeals.

Mr. Golden read the proposed Findings that the PB will need to approve, as follows:

“The Planning Board finds, due to the structure’s existing improvements, and the topography of the property, compliance with the requirements in Section 97-14(D)(1) and (2) regarding building placement and architecture (roof slopes) would discourage the applicant from improving the property. The Planning Board also finds that due to location and topography of the property, compliance with the requirements in Section 97-14(D)(3)(a) for a bike path and/or sidewalk to be constructed within the landscaped buffer would impose an unnecessary economic hardship on the applicant and would discourage the applicant from improving the property. Lastly, the Planning Board finds that due to the location of the existing structure, compliance with the requirements contained in Section 97-14(D)(3), subject to Specific Conditions noted below, relating to landscaping would discourage the applicant from developing the property. As a result of the above, the applicant need not comply with the provisions of the above-cited Code sections.”

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board approves Finding #1 as read in the proposed Resolution of Conditional Approval on the application of Bristol Motors. Passed unanimously.

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

Mr. Golden read Finding #2 as follows:

“The Planning Board has determined that the following elements of the site plan application are not necessary and are hereby waived: Section 97-75(B)(2)(that part stating “single trees eight or more inches in diameter located within any area where clearing will occur, forest cover”), (5)(as it relates to height), (10), (11), (12)(that portion requiring a grading plan), (13), (14)(that portion requiring a traffic study), (15)(c), (17) and (20). In connection with Section 97-75(B)(21), the Planning Board requested

information regarding the water usage for the project, and the adequacy of the yield of the well, as the information pertaining to the disposal of oil and fluids, and safety precautions for any leaks that may occur.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board approves Finding #2 as read in the proposed Resolution of Conditional Approval on the application of Bristol Motors. Passed unanimously.

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

Mr. Golden read the Specific Conditions of approval as follows:

1. Should the New York State Department of Transportation (“DOT”) require the existing landscaping located within the NYS Route 94 right-of-way be relocated, as part of this approval, the Planning Board approves the relocation of such landscaping to be placed along the front property line on the applicant’s property.
2. Prior to the signing of the plans, the applicant shall comply with the memoranda of the Town Planner dated September 19, 2012 and September 25, 2012.
3. The applicants have represented to the Planning Board that there is no intent to exceed the 10% limitation of outdoor storage area. Should the applicants desire to exceed the 10% limitation, the application will be required to return to the Planning Board for review.
4. Prior to the issuance of a Certificate of Occupancy, the existing topsoil and fill material storage piles graphically shown on the plans as being located within the setback shall be relocated to areas outside of the required setback.
5. Prior to the signing of the plans, the applicants shall revise the plans to correct the parking calculations, provide the requested AASHTO sight distance requirements, and advise whether clearing will improve the sight lines, in accordance with the memorandum of the Town Engineer dated October 12, 2012.
6. Prior to the signing of the plans, the applicant shall confirm with the Fire Department that the proposed access is adequate and there are no special fire protection needs or provisions. Proof of such confirmation shall be submitted to the Town Building Department prior to the signing of the plans. If the Fire Department determines that the proposed access is not adequate, or that there are additional special fire protection needs or provisions that are not set forth on the plans, then the applicant must return to the Planning Board for approval of such modifications.
7. All light levels must be limited to 0.1-foot candles at the property line so no offsite glare will result. The fixtures shall meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting.

8. The proposed ramp, aisles and parking stalls (ADA and other stalls) shall be gravel as shown on the plan unless the Building Inspector determines that the maintenance of the gravel surface creates unanticipated nuisance conditions (dust, ponding, excessive maintenance, etc.,) at which time the applicant will be required to pave these parking areas to the satisfaction of the Town Engineer.
9. Prior to the signing of the plan, the applicant shall provide information regarding the water use demand for the proposed business to the Town Engineer. If the proposed water demand will exceed 400 gallons per day of groundwater from the onsite well the applicant shall return to the Planning Board to determine the appropriateness of well testing.
10. Prior to the issuance of a Certificate of Occupancy, the applicant shall comply with all conditions of the September 5, 2012 decision of the Zoning Board of Appeals.
11. Prior to the signing of the plan, the applicant shall confirm the existing wastewater disposal system is appropriately designed for the anticipated flow and site conditions and is functioning properly as demonstrated by a dye test and visual inspection to the satisfaction of the Town Engineer. If the Town Engineer determines that the existing wastewater disposal system is not appropriately designed for the anticipated flow conditions, or is not functioning properly, the applicant must return to the Planning Board for further action.
12. Prior to the signing of the plans, the applicant shall comply with the October 12, 2012 memorandum of the Town Engineer to the satisfaction of the Town Engineer.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board accepts the Resolution of Conditional Approval Major Site Plan for Bristol Motors & Straub Properties, LLC Passed unanimously.

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

Jackson – 13-1-69.22 – 3.9 +/- acres located on Gibson Road in the RU District, AQ6 overlay. Modification of site plan for Dickerson subdivision for a duplex.

Representing the applicant: Christopher Jackson

Mr. Jackson said that his lot is from the Dickerson subdivision and was approved for a four bedroom single family house. He said he wants to put in a duplex with two bedrooms in each, noting that it will have the same number of bedrooms as was approved.

Mr. Bergus said he would like to see the house set further back. Mr. Lupinski asked if it is possible to put the two garages in the center. Mr. Jackson said that the way it is designed adds to the feeling of detached living.

Mr. Hoffman said he reviewed the driveway, the septic design and well. He said that based solely on the bedroom count, according to the Health Department, two 2-bedrooms is the same as one 4-bedroom. He said the Town engineers have no technical comments.

Mr. Golden said the application has been referred to the County Planning Department and the PB is waiting to get the 239 Referral from them. He said it has also been referred to the Town Environmental Review Board. He told the applicant that they will need to supply a maintenance agreement to the PB.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board declares the application of Jackson as a Type II Action in terms of SEQRA and waives the public hearing. Passed unanimously.

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

Anderson – 13-2-3 – 2.974 +/- acres located on 2 Gaebriella Terrace with frontage on Houston Road in the RU District with an AQ-3 and Scenic Road Corridor Overlay. Site plan application for 648 sq. ft. in-ground swimming pool.

Representing the applicant: Erik Anderson

It was noted that the applicant received a variance from the Town Zoning Board of Appeals. The ZBA is requiring the applicant to install a privacy fence.

Mr. Hoffman said that the road is high enough so that the fence will not block the view from the Scenic Road Corridor, as the PB is obligated to protect the view into the conservation area. It was decided that the applicant shall install a 6 ft. vinyl non-stockade privacy fence of a natural tone.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board declares the application of Anderson as a Type II Action in terms of SEQRA. Passed unanimously.

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

Mr. Golden read Finding #1 on the proposed Resolution of Conditional Approval as follows:

“The Planning Board further finds, in accordance with the requirements for the Scenic Road 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. Andrews, seconded by Ms. Cleaver, the Town of Goshen Planning Board accepts Finding #1 as read on the application of Anderson. Passed unanimously.

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

Mr. Golden read Finding #2 as follows:

“The Planning Board has determined that to the extent that the elements of the site plan application are lacking those contained in Section 97-75(B), the Planning Board hereby deems that they are not necessary and are hereby waived.”

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board accepts Finding #2 as read on the application of Anderson. Passed unanimously.

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

Mr. Golden read the seven Specific Conditions of approval as follows:

1. The applicant received a Decision from the Town Zoning Board of Appeals dated September 12, 2012 for an area variance from the eastern side-yard setback related to the property. The applicant shall comply with all conditions contained therein, which include: (a) the applicant shall install a privacy fence enclosing the proposed pool and concrete pad, subject to the Planning Board’s review; and (b) the applicant shall plant landscaping along the outside of the aforementioned fence, to screen the pool, pad and fence from Houston Road and the neighboring property. The landscaping shall be approximately the same height as the fence,

green all year and not a deer-friendly variety, subject to the Planning Board’s determination as to appropriate plantings.

2. If any lighting is proposed, the light levels must be limited to 0.1 foot candles at the property line so no offsite glare will result. The fixtures shall meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting.
3. The applicant shall install the type/style of fence indicated by the Planning Board at its meeting on October 18, 2012, which is further described as non-white, non-stockade privacy fence.
4. Prior to any construction, the applicants shall comply with the technical comments included in the Town Engineer’s September 14, 2012 report regarding access, storm water drainage, landscaping and surveying the property line.
5. Onsite disposal of soil into the conservation easement is prohibited.
6. Construction vehicles must access the pool and pad area via the side of the house fronting on Houston Road so as not to damage the septic system.
7. Prior to any construction, the applicants shall comply with the memorandum of the Town Planner dated October 12, 2012 regarding the landscaping.

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Andrews, the Town of Goshen Planning Board accepts the Resolution of Conditional Approval Minor Site Plan for Anderson. Passed unanimously.

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

Land Worx – 18-1-17.2 1.9+/- located at 4239 State Route 94 in the RU District with an AQ3 overlay. Change in use of the existing building to add apartment above the building.

Representing the applicant: Pete Nilsestuen

Mr. Halloran said that the property is located on Route 94 north of Arcadia Rd. and that there is an industrial-looking building on the property used for years to repair large trucks and heavy equipment. It was a pre-existing non-conforming use. The applicant wants another non-conforming use, to use it as a landscaping facility (not retail) with a second floor apartment and that is permitted if the PB determines that the non-conforming use is of equal or less impact, Mr. Halloran said.

Mr. Golden recited the zoning code stating that “a non-conforming use of a structure or parcel of land, may, on issuance of a special permit by the Planning Board, be changed to another non-conforming use which is of the same or lesser impact.” Mr. Golden explained the criteria listed in Section 97-73 to be considered when weighing the impact.

The PB discussed whether a landscaping business and apartment have less of an impact than a heavy equipment repair facility. Mr. Golden said it is a qualitative decision. No decision was made.

Mr. Hoffman was asked to review the septic, well and storm water system.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board directs its legal counsel to draft a special permit resolution on the application of Land Worx for PB consideration at its next meeting. Passed unanimously.

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

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board sets a public hearing on the application of Land Worx for November 15, 2012. Passed unanimously.

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

Al Turi Landfill Inc. – 12-1-7.2, 19, 1.2 and 12-1-21, 22, 20 & 21.1 – 118.31 +/- acres subdivision located at 73 Hartley Road in the I District in the flood plain and stream overlay. Combine six parcels to create three new lots.

Representing the applicant: Dan Yanosh, Surveyor

It was stated that the applicant wants to combine six parcels into three.

Ms. Cleaver said that the site is a Class 4 State Superfund Site and asked if there is a letter from the DEC stating it approves of this being subdivided.

Mr. Golden said he reviewed the deed and there is a DEC declaration but that nothing prohibits this in the DEC declaration which would run with the land. “Just because you are modifying the lot lines, that Declaration will still apply to the land,” he said. Mr. Golden said he is asking for any other stipulation, judgments, easements etc. to determine if there is anything that states the applicant cannot modify the lot line. The applicant will have to wait for the results of a title search, he said.

Mr. Golden said that the application is not an action under SEQRA, so is not subject to SEQRA since the applicant is only suggesting changing imaginary lines on a map and that a public hearing is not required.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Gawronski, the Town of Goshen Planning Board determines not to hold a public hearing on the application of Al Turi Landfill Inc. because it is not necessary on a lot line change. Passed unanimously.

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

A&L Acres – Field Change

Mr. Hoffman said that part of the new Phase I includes a pre-cast concrete bridge that was at a steep angle to the road, and that the applicant wants to make the bridge more perpendicular to the road, by shortening it. Mr. Hoffman said he thinks it is a good idea and PB members said they were in agreement.

ADJOURNMENT - The Planning Board adjourned at 9:30 p.m.

Ralph Huddleston, Chair
Notes Prepared by Susan Varden