

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

January 20, 2011

Members Present:

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

Also Present:

Neal Halloran, Building Inspector
Dennis Lindsay, PB Engineer
Ed Garling, PB Planner
Richard Golden, Esq. PB Attorney
Kelly Naughton, Esq. PB Attorney

The minutes of the PB meetings of November 18, 2010 and December 16, 2010 were approved with corrections.

Possible Extensions pursuant to Town Code

Persoon – Request for extension of conditional final approval.

Mr. Golden said the applicant's conditional final approval expires Feb. 3. This will be the third extension, if granted. A 90 day extension would expire May 4, 2011. Mr. Golden said that state law was amended so that the PB has the ability to continue to extend conditional final approvals provided they believe it is appropriate. If there is a reasonable basis that the applicant is not abandoning an application, that the applicant is working forward, it is appropriate to extend, he said.

Applicant representative, Jerome Fine, said the applicant is still deliberating on the access road and is moving forward.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver, the Town of Goshen Planning Board extends the conditional final approval on the application of Persoon to May 4, 2011. Approved.

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

Zalunski – Request for extension of Phase I conditional final approval. Extension of Phase II & III conditional preliminary approval.

Mr. Golden said that the Phase I conditional approval expires February 3, 2011, and that a 90 day extension will take it to May 4, 2011. The extension of Phase II and III conditional preliminary approval expired October 28, 2010.

Mr. Esposito said the application is being reviewed by regulatory agencies and that the applicant is working on getting conditions met.

Ms. Cleaver said she would like applicants to bring documents to the PB showing their progress since their last approval. Mr. Golden said the PB has the right to condition any extensions granted on the fact that it wants to see, before the expiration of the extension, documented proof as to the progress the applicant is making toward satisfying those conditions.

Mr. Huddleston suggested that when the applicant asks for extensions in the future that the Building Inspector have them supplement their request with a summary of what they have done since their last extension and assurance in writing that the project is not being abandoned. To be effective, Mr. Golden said, the PB should condition its extension on that. The Building Inspector can advise them by letter, he suggested.

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Bergus, the Town of Goshen Planning Board extends the conditional final approval of Phase I of the application of Zalunski to May 4, 2011, with the condition stated by counsel regarding reporting requirements for future extensions. Approved unanimously.

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

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Ms. Cleaver, the Town of Goshen Planning Board extends the conditional preliminary approval of Phase II and III of the application of Zalunski to May 4, 2011, with the condition stated by counsel regarding reporting requirements for future extensions. Approved unanimously.

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

It was noted that this was not made a condition of the extension granted the Persoon application and it was also noted that the applicant was no longer present.

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver the Town of Goshen Planning Board amends the Persoon extension for conditional final approval to add the reporting conditions that were added for the two previous applications. Motion defeated.

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

Mr. Golden said that the Building Inspector can advise the applicant that the PB is looking for applicants to provide proof of progress to insure the likelihood they will get further extensions.

New Horizon – Request for extension of preliminary approval

Mr. Golden said the original resolution was filed with the Clerk on August 20, 2009 and expired February 20, 2010. Two six-month extensions have been given bringing it to February 20, 2011. Another six month extension would expire August 20, 2011.

Mr. Halloran said the applicant is obtaining approvals from the Department of Health regarding the septic system.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Gawronski, the Town of Goshen Planning Board grants a six-month extension on the preliminary approval of New Horizon with the condition stated by counsel regarding reporting requirements for future extensions. Approved unanimously.

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

Heritage Custom Homes – 18-1-127.21 – 59.6+/- acres, 5-lot major subdivision located on Clark Rd in the RU zone with an AQ3 overlay. Preliminary and final for minor subdivision.

Representing the applicant:

Michael Sandor, PE

Mr. Halloran reported that the small cemetery has been identified. He thinks it is an old family cemetery dating back to the early 1800s. It is located on a high point in the middle of the wetlands, he said, and can be accessed by the remainder parcel, Lot #5.

Mr. Golden said he has not been able to find authority in cemetery law requiring the PB to provide access. It is not atypical for boards to find ways to provide access but no legal authority to do so has been found, he said. Mr. Golden suggested that the Town Board and the applicant work something out so that access is assured. Given the location, the applicant could grant an easement to the Town that would at least provide for an access for the Town to maintain it. Mr. Sandor said the applicant will be willing to give such access. Mr. Golden said he will add it as a condition of approval.

Mr. Sandor said the location of the cemetery has been surveyed as requested, that it was found to be completely surrounded by state designated wetlands and suggested that “nothing will ever happen to that parcel.”

Mr. Golden presented a draft resolution of conditional preliminary and final approval. The PB must first approve a specific Finding. The Finding was read as follows:

“The project presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but suitable parks or recreation areas of adequate size to meet this requirement cannot be properly located on the site, requiring a payment of a parkland fee to be determined by the Town Board in lieu of providing such parkland.”

VOTE BY PROPER MOTION, made by Mr. Myruski, seconded by Ms. Cleaver the Town of Goshen Planning Board adopts the Finding as read in regard to parkland fees in the Resolution of Conditional Preliminary and Final Approval on the application of Heritage Custom Homes. Approved unanimously.

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

Mr. Golden read the specific conditions cited in the Resolution as follows.

1. Simultaneous with the filing of the plat, the applicant shall place a Conservation Easement over the property as indicated on the plans for all phases, enforceable by the Town and all properties within, and contiguous to, the subdivision, which shall be drafted to the satisfaction of the Town Attorney as to form, including ongoing maintenance standards and obligations of the owner(s) of open space

- land to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials, and is otherwise utilized in conformance with the Conservation Easement.
2. Prior to the signing of the plat, the applicant shall include the required agricultural note on the plat contained in Section 97-47 of the Town Code.
 3. The applicant must demonstrate to the satisfaction of the Building Inspector that the plan fully complies with Section 97-41(F) of the Goshen Town Code.
 4. Wetlands and any required buffers are to be marked on the individual lots prior to Final Approval. The applicant must use proper Environmentally Sensitive Area (“ESA”) signage consisting of green fiberglass posts and orange stickers with black lettering stating “Environmentally Sensitive Area”, spaced at distances of no less than 25 feet nor more than 100 feet as determined by the Building Inspector in the field and have such signage in place prior to any site disturbance.
 5. The applicant shall submit two copies of all submissions to and responses from any permitting agencies between the time of this conditional approval and the issuance of a building permit.
 6. The applicant shall provide deed restrictions, acceptable to the Town Attorney as to form, stating that no site specific water testing has been performed in connection with the subdivision to determine the adequacy of potable water for each lot, and that a showing of adequate water shall be provided to the Building Inspector prior to the issuance of a building permit. This shall also be included as a note on the plat. The deed restriction and note may be removed by order of the Planning Board upon proof submitted to the Building Inspector, in consultation with the Town Engineer, that there is adequate potable water.
 7. Prior to the signing of the plat, the applicant shall revise General Note No. 10 to state, “Any future subdivision of the parcels involved herein shall be treated as an application for open space development and shall be reviewed under the provisions of Section 97-20 “Standards for Open Space Development”.
 8. The excavation and installation of the sewage disposal absorption fields will be subject to review by the Town Engineer and Building Inspector throughout construction. The applicant shall provide the Town Engineer and Building Inspector with at least 48 hours notice prior to the commencement of any excavation in connection with the absorption fields so that a representative of the Town may be present at the time work is to be performed.
 9. Prior to the signing of the plat, the applicant shall update the revision date of Sheet C-4 to December 16, 2010.
 10. Prior to the signing of the plat, the applicant shall adequately address to the Town Engineer’s satisfaction the comments of the Town Engineer’s January 17, 2011 memorandum.
 11. Prior to the signing of the plat, the applicant shall adequately address to the Town Planner’s satisfaction the comments concerning Sheet C-3 contained in the memorandum of the Town Planner dated January 13, 2011.

12. Prior to the signing of the plat, the applicant shall provide an easement to the satisfaction of the Planning Board attorney as to form, providing access to the Weslowski/Sayre cemetery over the entirety of Lot #5 which shall remain until such time as Lot #5 is proposed for development and suitable access can be agreed upon between the owner of Lot #5 and the Town of Goshen. Proof of filing of such easement shall be provided to the Building Inspector prior to the issuance of a building permit.

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Mr. Myruski, the Town of Goshen Planning Board accepts the “Resolution of Conditional Preliminary and Final Approval Small-Scale Major Subdivision for Heritage Custom Homes, Inc. Clark Road”. Approved unanimously.

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

Owens Rd./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.

Representing the applicant: Steve Esposito, Gardiner Barone, Esq.
Travis Ewald, Stacey Stevens

Mr. Esposito said the applicant is present to have the Negative Declaration issued by the PB several years ago re-confirmed.

Mr. Golden said that Mr. Garling proposes to modify the previous Negative Declaration for up to 39 lots to bring it up-to-date.

Mr. Golden asked if a Phase II archeological analysis has been conducted and if the applicant has anything indicating that SHIPO has been satisfied. Mr. Esposito said that they don't yet, but will have.

Mr. Golden said the PB could adopt Mr. Garling's proposed Negative Declaration with its modifications or it could just continue with the old Negative Declaration. Mr. Barone said he would prefer that the PB re-affirm the already existing Negative Declaration. Mr. Golden said it is not necessary to re-affirm it, since there is already a Negative Declaration and the determination that construction of up to 39 lots will have no significant impact on the environment. He told the PB that if it is satisfied with the prior

one, and noted that he is satisfied with it legally, the PB can allow the old one to continue. The PB decided to simply allow the previous Negative Declaration to continue. No motion was required.

Ms. Cleaver asked if the Town waived the 50 ft. agricultural setback buffer, stating that it appears that the house is within the buffer on Lot #23. Mr. Golden said that there is no specific distance for the buffer and that the provision in Section 97-47 refers to buffers but not the size of buffers. Mr. Huddleston said that some type of buffer needs to be provided for lots #1, 2, 3, 22 and 23.

The PB discussed several issues including an emergency access road, easements and water and it was decided that those issues will be further discussed at the work session prior to the public hearing.

Mr. Golden said that the PB has to act upon the application within 45 days. He asked the applicant if they would have an objection if the public hearing, which will be set for the next meeting, has to be postponed one additional meeting. Mr. Barone said he was okay with that.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Gawronski the Town of Goshen Planning Board sets a public hearing for February 3, 2011 on the application of Owens Rd/.Goshen Meadows. Approved unanimously.

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

OTHER BUSINESS

Mr. Huddleston gave an official welcome to David Gawronski who has replaced Mary Israelski on the PB and to Giovanni Pirragalia who will be replacing Raymond Myruski. He thanked Ms. Israelski and Mr. Myruski for their service and support.

Town Supervisor Doug Bloomfield thanked both Ms. Israelski and Mr. Myruski on behalf of the Town Board. Mr. Myruski had served on the Town Board and then on its Planning Board providing a total of 29 years of service to the Town. He will be a legal resident of the State of Florida as of February 1, 2011.

ADJOURNMENT: The meeting was adjourned at 9:45 p.m.

