

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
August 24, 2020

PRESENT: Chairman Harvey            Mr. Farmer  
          Mrs. Rasmussen            Mr. Dailey  
          Mr. Kestler                 Mr. Thomas-Alternate

EXCUSED: Mrs. Harris                Mr. Hoover

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Thomas, Alternate will participate and vote on all decisions tonight. Mrs. Rasmussen made a motion to approve the June 22, 2020, minutes. Mr. Thomas seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #10-2020, J Edward Weaver, owner of property at 4928 County Rd 29, requests site plan approval to build a 40' x 40' commercial building for a bulk food store. Public hearing time 7:30PM-7:55PM.

The application was referred to the Ontario County Planning Board. The following comment was made by the Ontario County Planning Board. The referring board should recommend changes to the site plan to retain a natural character along the roadway; screen dumpster, loading, and parking from view; and fit the use into the existing agricultural and residential character of the area.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

J Edward Weaver and Brennan Marks, Marks Engineering, was present and presented the plan to the board.

Chairman Harvey asked if the applicant owned the property.

Mr. Marks stated that the applicant is under contract to purchase the property.

Chairman Harvey stated that the contract for purchase will need to be filed in the town. Technically the owner of the property either has to be the applicant or the town must have something in writing from the owner of the property allowing the applicant to proceed with the application.

Mr. Marks stated that the application is to replace a bulk food store that has closed in an adjoining Town. "It is an important part of the community to have a bulk food store. The business will be employed by his family that resides at the residence.

The application is for a 40' x 40' pole structure for a home business bulk food store. There will be roughly 12 parking spaces at the front of the building along County Road 29. There also will be a loading area, which will be accessible by semi-trailer; there is a long spur driveway here to back up to the building and unload. They did point out an area for a dumpster whether or not he does have a dumpster. There is some screening from County Road 29 with a bunch of shrubs and a fence line that will be along the loading area to screen the dumpster. Semi-trailers will not be there permanently. They'll be there quickly to unload. We've also showed a small catch pond that will retain the water coming off the new driveway before it is discharged out towards the field, which goes down the old property boundary to the flint creek."

Chairman Harvey stated, "as far as storm water management goes, is the catch pond also an infiltration pond?"

Mr. Marks stated that it is mostly sandy soils, so they are expecting it to be dry.

Chairman Harvey asked if there was any calculations on the storm water management.

Mr. Marks stated that he can provide the calculations.

Chairman Harvey stated that the County's comments are in line with the Town's Design Guidelines. Which talks about maintaining the character and having the parking out back. It's should look agricultural and rural.

Mrs. Rasmussen asked if there was going to be a porch/covering type area on the entrance of the building.

Mr. Weaver stated that there will be a two foot overhang along the front of the building.

Mr. Dailey asked if bathrooms were required in this type of building.

James Morse, Code Enforcement Officer stated that if they are not serving food he doesn't believe they have to have a public bathroom. He would have to review the code to be sure.

Mr. Marks stated that there is going to be a bathroom in the building for the staff that will be working on premise. Which will be tied into the existing septic system.

Mr. Thomas asked if there was going to be a sink in the structure.

Mr. Weaver stated that there will be a sink in the bathroom and there has to be a three wash station per the health department.

Mrs. Rasmussen asked if they would be selling deli meats and salads.

Mr. Weaver stated that there may be some prepackaged in the refrigerator for sale.

Chairman Harvey stated that he doesn't have a problem with entrepreneurship but from the towns point of view there is only so much business to go around and the town wants to understand this business and how it fits into the community and doesn't infringe on other existing businesses.

Mrs. Rasmussen stated that she would not have a problem with keeping the parking the way it is as long as they could put some trees and shrubs to shield the parking area from the road.

Chairman Harvey stated that he doesn't have a problem with putting trees and shrubs to shield the parking area but to do this he would have to shift everything back more from the road right of way to accomplish this.

Mr. Marks stated that that would be no problem to shift everything back some from the road.

Mrs. Rasmussen stated that she doesn't see any hitching rails.

Mr. Weaver stated that they will be in the parking lot.

Mr. Marks stated that Mr. Weaver has asked him about this and there will be hitching rails added in the parking lot.

Mr. Dailey asked if the building would be agricultural and farm friendly and will the color blend with the area?

Mr. Weaver stated that the building will be the same color as the rest of his buildings. They are brownish in color.

Mr. Marks stated that they would like to stay with the layout that they have presented because the grade drops off quite a bit to the back of the property. He said that they could move it back 5 feet and put some plantings in the front.

Mrs. Rasmussen asked if there was going to be a sign.

Mr. Marks stated that a sign was not part of this application because it is still to be determined.

Mr. Weaver stated that he was thinking of having a sign on the building and having a portable sign at the road that could be changed with specials.

Chairman Harvey stated that he thinks they are going to want something more permanent. The town allows the temporary ones for occasional use. The applicant needs to come up with a proposal for the signage.

Mr. Dailey asked if there was going to be any lighting.

Chairman Harvey asked about the hours of operation.

Mr. Marks stated that lighting is required at the entrances by code, which will be on the loading dock and on the front entrance. The lighting will be dark sky compliant as noted on the plan.

Mr. Weaver stated that the outside lights will be dusk to dawn lights or motion detection lights.

Mr. Weaver stated that the hours of operation will be 8 to 5 Monday through Thursday, Friday 8 to 6 or 7 and Saturday till 3PM. Closed on Sunday.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was closed.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mr. Dailey made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Farmer seconded the motion, which carried unanimously.

Mr. Thomas made a motion to approve the site plan with the following conditions: 1. A detailed description of the type of sales be presented. 2. Modify the site plan to provide screening to the parking lot from the north, south and along County Road 29. 3. Locate the location of the signage, which will need to be approved by the County as well as the Town Code Officer. 4. Provide the storm water calculations. 5. Show the hitching rail location in the parking area. 6. The hours of operation are Monday through Thursday 8:00AM-5:00PM, Friday 8:00AM-7:00PM and Saturday 8:00AM-3:00PM. 7. The approval is contingent on the sale of land to J. Edward Weaver from Kevin Phalen. Mr. Kestler seconded the motion, which carried unanimously.

Application #11-2020, Robert Johnson, owner of property at 4976 County Rd 11, requests site plan approval to build a single family home. Public hearing time 7:55PM-8:20PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

On August 20, 2020, the Zoning Board of Appeals granted a 49.45 variance for a setback of 50.55 from the natural resource protection (creek bed) and a 15 foot variance for a setback of 20 feet to Jones Road.

The application was submitted to the Ontario County Planning Board.

#### OCSWCD Comments

1. All work involving a Class C Stream will require permitting approval through NYS DEC and US Army Corps of Engineers.
2. No indication of soil stockpiles and required accompanying silt fence on plans. Grading notes indicate soil stockpile.

3. Temporary diversion swale detail not included. Erosion and sediment control measures accompanying swale may be needed.

Brennan Marks, Marks Engineering and Robert Johnson were present and presented the application to the board.

Mr. Marks stated that the changes from the last plan that was presented is they have added a three foot berm along the western side of the creek next to Jones Road. Also, they have converted the structure to have a crawl space verses a full basement. It will be a 4 foot 6 course crawl space. They are providing infiltration chambers along County Road 11 that will collect the water from the roof for a 25 year storm and soon as it overflows it will go into the stream.

Chairman Harvey stated that with the grading around the house and if the water comes up out of the creek it appears that it will flow around from the house.

Mr. Marks stated that the house is approximately 4 feet higher than Jones Road so the water would go down Jones Road before it would take out the house. The house is also about 4 feet higher than the stream embankment on the south.

Chairman Harvey asked what the symbol is that runs along the top of the bank of the stream.

Mr. Marks stated that was a discussion with the ZBA providing a 5 foot area that the owner will just let it grow wild. It will be a deed restriction.

Chairman Harvey asked if there were any comments from the public.

Charles Graham neighbor to the west "I hope everybody remembers when we were here last fall. And you seen all the pictures of the potential damage and the damage we did have of the 3 or 4 storms that have come down through. The other night Mr. Marks talked about they were going to reinforce the wall with some large blocks. Is that still going to be done or not done? Do we have a drawing on it?"

Mr. Marks stated that it is the area shown on the plan as new streambank stabilization. The streambank stabilization is going to be large limestone rip-rap which is average size 24" in diameter although it's mostly rectangular so the average size is 18" tall three feet long 24" wide.

Mr. Graham asked if the dimensions of the wall was going down into the bed of the stream and coming up to the top of the bank.

Mr. Marks stated yes.

The board invited Mr. Graham to the table to look at the streambank stabilization on the plan.

Mr. Graham asked what the length of the stabilization was.

Mr. Marks stated the length was going to be 60 feet.

Mr. Graham stated that it was mentioned the other night that they have to get DEC permit to construct this.

Mr. Marks stated that the DEC has already responded that they have no jurisdiction. Army Corp of Engineers has been engaged and they have gone back and forth and have answered all of their questions. They are waiting for them to issue a permit.

Mr. Graham stated that when the County minutes was read they stated DEC and Army Corp of Engineers.

Chairman Harvey asked if it was a unified permit that goes to DEC.

Mr. Marks stated that it qualifies for a national permit from the Army Corp and the DEC, but they are doing their due diligence to solicit to them to provide proper notifications. So, it would be under national permit that they are allowed to do up to 300 feet of stream bank stabilization before DEC constitutes them to qualify for a different permit.

Mr. Marks stated that it is good practice to provide pre-construction notification to the DEC.

Mr. Graham stated that currently there is a lot of debris ready to enter under County Road 11 which will then end up into the lake. "Is there anyway an easement can be put in place or some kind of plan that this gets cleaned out periodically? Because all this with the next big storm is all going to flow right out into the lake."

Mr. Morse stated that the County already has an easement to clean that out. It is the County's responsibility to clean that out. The County will need to be contacted.

Mr. Graham stated that there is more development going on at the top of the hill with a new house and fields cleared and along with this project is going to be adding to this natural resource.

Chairman Harvey stated that "We have been very careful to make sure that nothing about this is going to add flow, so unless you want to dispute the engineers report with your own engineer that's really not a valid statement."

Mr. Morse stated that the project at the top of the hill has been stopped because it was commenced without any approvals from the Town.

Mr. Graham stated "The easement that was granted is 65 feet or so for Jones Road and along the stream. I guess in 1986 it was researched by a ZBA member that it was put in place in 1986. I guess I asked that night I'm going to asked again I think it would have been done for a reason."

The board thought Mr. Graham was talking about the County Easement and in since he was talking about the Town's Natural Resource Protection setback regulation.

Mr. Graham questioned why the town changed this regulation.

Chairman Harvey stated that the town wanted to protect the streams. Given the particulars about this property the ZBA has balanced that restriction verses the ability to develop and the right to develop for a single family home and granted a variance.

Mr. Graham asked if the house should be made smaller to try and attempt to minimize the impact.

Chairman Harvey state that the proposed lot coverage is 6.7%. It's a two bedroom residence. It's not an extravagantly large house.

Chairman Harvey asked if there were any more comments from the public. Hearing none, the public hearing was closed.

A letter dated September 20, 2019, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Dailey made a motion to approve the site plan with the following conditions: 1. Change the sump pump discharge to discharge to the trench drain. 2. Finalize the permit with the Army Corp of Engineers. 3. The house must meet the Town of Gorham's Design Guidelines. Mrs. Rasmussen seconded the motion, which carried unanimously.

Application #12-2020, Lianne Allen, owner of property at 4964 East Swamp Road, requests subdivision approval to merge tax map no 158.00-1-21.210, 158.00-1-26.110, 158.00-1-26.210 and part of 158.00-1-27.100 into one parcel, and subdivide the rest of 158.00-1-27.100 into two parcels and build a single family home on Lot 1. Public hearing time 8:20PM - 8:45PM.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQRA that will not receive coordinated review since no other discretionary agency approval is required.

Mr. Dailey made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Thomas seconded the motion, which carried unanimously.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

Brennan Mark, Marks Engineering, was present and presented the application to the board.

Mr. Marks explained to the board what lots were being combined and what lot was being subdivided for the new home to be built. After the combining and subdividing of lots there will be three lots. Lot 1 they are proposing to build a single family home.

Chairman Harvey asked what the timing was on the barns to be razed.

Mr. Marks stated that they will be razed prior to filing the subdivision.

Chairman Harvey asked where the septic system and well is for the existing frame house.

The existing frame house has public water as an out of district user.

Chairman Harvey asked what Lot one was going to do about water.

Lot one will need approval from NYS Health Department or drill a well.

Mr. Marks stated that he can show on the plan where the septic system is on the existing frame house. It's south of the building.

Mr. Marks stated that he will provide stormwater calculations.

Chairman Harvey asked if there was a design for the house. There is design standards that the town has.

Mr. Marks stated that it will meet the architectural standards. She hasn't started with the design process yet.

The spacing of the driveways was discussed as to how it fits within the Town's Access Management Local Law.

Mr. Marks stated that it is not possible to meet the distance requirement and have the drive within Lot 1, but they will put it as close to the south property line as they can.

Chairman Harvey stated that they could also share a driveway with neighboring property.

Mr. Marks stated that there is a big drainage ditch between the lots.

Chairman Harvey stated that they can move it as far south as possible contingent on the Town of Gorham's Highway Superintendent's approval. The existence of the sizable drainage ditch is the reason that Lot 1 and Lot 2 can't share a driveway. The Planning Board will reserve the right for the applicant to provide access to the property to the south in the future and needs to show on the plan.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was closed.

Mr. Thomas offered a resolution [attached hereto] to approve the subdivision with the following conditions: 1. Show the existing septic system on Lot 2. 2. Provide stormwater calculations. 3. Approval from NYS Health Department for public water or a well be shown on the plan. 4. Approval is contingent on meeting the towns architectural standards and provide a landscape plan that complies with the Design Guidelines. 5. A note on the subdivision stating future easement for shared driveway access to the property south. 6. The driveway location is moved as far south without disturbing the tree line and approved by the Town Highway Superintendent. Mrs. Rasmussen seconded the motion, which carried.

Application #13-2020, Paul & Charin Greco owners of property at 4674 Lake Drive, requests site plan approval to build a single family home. Public hearing time 8:45PM - 9:10PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

The application was in front of the Zoning Board of Appeals on August 20, 2020, no decision on the application was made at that time.

Mr. & Mrs. Greco and Wendy Meagher, Meagher Engineering, was present and presented their application to the board.

Mr. Greco stated that they have owned the home for 23 years and love the location. They are at the point now where they would like to make this their permanent residence. They are trying to have something that is a little more accessible all on the first floor.

The variances that are needed is lot coverage, north and south side yard setbacks, and front yard setback.

Ms. Meagher stated that they are improving one of the side setbacks. They are gaining a side variance on the other side and a front variance and lot coverage. "There's patios in the front and the rear of the house that sheds a lot of storm water runoff. We are proposing to remove all of those patios. We are reducing the overall lot coverage even though it's greater than per code, but we're also capturing the storm water runoff through downspouts on the home and taking those and putting those into an infiltration trench along the property line. Right now, it has a 50%+ lot coverage but there is no storm water remediation. We are proposing to handle the ten year storm per the Gorham town code. We're also keeping all of the vegetation along both side property lines; both the mature trees on the south side and on the north side there's a very mature hedge row that we're not changing at all. So, the only thing we're proposing for the site changes is the patio being removed part of the parking area is being removed and just a little bit larger footprint on the house."

Mr. Greco explained the letter that was written to the board of how he acquired the property next door.

Chairman Harvey explained that if you have a residence on two neighboring non-conforming properties and want to replace one residence you need to also tear down the other home.

Mr. Greco stated that they have sold the property at 4676 Lake Drive. Him and his wife have zero ownership of that property.

Chairman Harvey stated, "I see you're meeting the height requirement but there was no way you could work the plan to actually meet the setbacks and get the house that you wanted on this property?"

Ms. Meagher stated that they did meet some opposition at the ZBA so they are going back to the drawing board to see if they can reduce the house footprint slightly. They are reducing the lot coverage. They are staying within the character of the neighborhood. These are very small lots.

Chairman Harvey stated, "They were cottages and now we're trying to make a year around out of it on a very narrow lot that was intended to be a cottage, so you have got to give up a little. Only so big of a house fits on one of these lots."

Chairman Harvey stated that he is going to want to see a couple spot elevations showing how the water is draining around the house. There needs to be a minimum 2% grade 5 feet away from the foundation.

Chairman Harvey stated that once the ZBA makes a decision on the application a site plan with the ZBA's decision must be filed in the Zoning Office 5 days before the Planning Board meeting. They would like it in a hard copy and digital as well.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was adjourned to be re-opened on September 28, 2020 at 7:30PM.

The board would like to see renderings of the proposed home. Any outdoor lighting needs to be dark sky compliant and shown on the plan.

#### SKETCH PLAN:

Application #16-2020, Scott A. Harter P.E. applicant for David G Case, owner of property at 5198 Long Point Road, requests sketch plan to discuss subdivision of existing parcel, demolish existing structures and build two single family homes one on each parcel.

Scott Harter and David Case were present and presented their application to the board.

Mr. Harter stated that they would like to subdivide this piece of property and have done a sketch of proposed houses.

They would like to tear one house down subdivide the lot into two lots and build two new houses.

The lot is about 1 acre in size, and they are proposing to split the lot into two  $\frac{1}{2}$  acre parcels.

Chairman Harvey questioned whether the lot met the frontage requirements.

The frontage and the access was discussed. Long Point Road is a private road. Chairman Harvey suggested that the applicant contact his attorney, or the town can contact their attorney at the applicant's expense to see what the rules are for access off a private road. A question is who has the rights to use Long Point Road?

Chairman Harvey stated that if they could add another use the Planning Board is still looking at the frontage on the private road. That will be another hurdle that will need to be discussed. This creates a flag lot. The board is going to want to see what the agreement is for the shared driveway and for Long Point Road.

Chairman Harvey stated that this is also in the flood plain, so they are going to require a flood plain permit and balance a cut and fill in the flood plain.

#### MISCELLANEOUS:

Rick Perry was introduced to the Planning Board who is interested in being appointed as an alternate to the Planning Board.

Mr. Dailey had a question on the Design Guidelines. People are saying that they understand the guidelines, but he is unsure if they are complying with them.

Chairman Harvey stated that the Site Plan review section and the Subdivision Regulations have a clause in them that requires compliance with the Design Guidelines, or the Planning Board will need to come up with justification why they can't be met.

Mrs. Rasmussen questioned the property across the street from the Highway Department. They have so many unlicensed vehicles there.

Mr. Morse stated that he has talked with them and they will need to come before this board for approvals to run a business there.

Chairman Harvey stated that he has a concern with Proctor Enterprises blocking the fire lane every night and all weekend long. After a brief discussion, the board decided that if this is not rectified their approvals will be withdrawn by the Planning Board next month.

Mr. Dailey made a motion to adjourn the meeting at 9:34PM. Mr. Thomas seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary