

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
January 31, 2022

PRESENT: Chairman Harvey            Mr. Dailey  
          Mr. Farmer                 Mr. Kestler  
          Mrs. Harris                 Mr. Perry-Alternate

EXCUSED: Mrs. Rasmusen            Mr. Hoover

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Perry-Alternate will participate and vote on all applications tonight. Mr. Kestler made a motion to approve the December 13, 2021, minutes as submitted. Mr. Dailey seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #02-2022, Lianne Allen, owner of property at 4964 East Swamp Road, requests re-approval of subdivision 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 that was previously approved on August 24, 2020. Public Hearing time 7:30PM - 7:45PM.

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

Scott P. Falvey, ESQ was present and presented the subdivision map to the board.

This subdivision was previously approved by the Planning Board on August 24, 2020. The applicant failed to file the previous map within 6 months of approval.

Mr. Falvey stated that nothing has changed from the original application.

Chairman Harvey asked if the barns have been razed yet that are shown on the map to be razed.

Mr. Falvey stated that he talked to his client and her understanding is that her and the new owner of the property will mutually coordinate the dismantling of the barns. They have not been dismantled at this point.

Chairman Harvey stated that they will need to pick a reasonable date and time frame to get the demolition done with the barns.

Mrs. Harris questioned the proposed driveway on lot 1.

Chairman Harvey stated that they need to be cognizant that it is a 55mph speed limit road so 440 feet is required between driveways.

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

Chairman Harvey stated that the driveway location for lot 1 must be 440 feet from the driveway on lot 2. If the driveways are not 440 feet apart than the driveway on lot 2 must go away and lot 2 and 3 must share a driveway. There is a difference between a driveway that serves as an agricultural entrance and one that serves a residence. Future construction on lot 1 is subject to site plan review by the town.

Mr. Farmer offered a resolution [attached hereto] to approve the subdivision with the following conditions: 1. Driveway must meet the town's Access Management Local Law. 2. Future construction is subject to site plan review by the Town of Gorham. 3. Removal of the three frame barns that cross the property line of Lots 2 and 3 must be completed within the next 9 months to a year and a bond, surety, or cash, in the amount of \$1000.00 be given to the town. The Town Board will make the decision on the type of assurance. Mr. Dailey seconded the resolution, which carried unanimously.

Application #29-2021, Brian Mastrosimone, owner of property at 3792 State Rt. 247, requests a renewal of his Special Use Permit with site plan modifications for outdoor event operations. Public Hearing time 7:45PM-8:00PM.

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

The application was referred to the Ontario County Planning Board for their review.

The Ontario County Planning Board made comment that the Special use Permit lists agritourism as the current use of the site. There is no indication of what site activities are covered by the special permit renewal. The referred materials also include a conceptual master plan showing new and expanded site activities including additional camping and parking; buildings to house restaurant/conference center, convention center, vendors/classrooms, event barn; and an outdoor amphitheater, greenhouses, and farm garden. Any of these proposed site activities would require local and Board review of a revised site plan. Portions of the site are zoned Priority Farmland and portions zoned Planned Development. The special permit use lists for the zoning district mapped on the property include public campground. The submitted materials do not clearly indicate the location of existing and proposed site activities in relation to zoning boundaries so it is difficult

to identify what use and development regulations apply. Motion was made to return it to the local board as incomplete. A complete application should clearly identify the uses and conditions allowed by the special use permit.

Brian Mastrosimone was present and presented his application to the board.

Mr. Mastrosimone stated that he has presented an engineered stormwater pollution prevention plan to the town prepared by Costich Engineering. A copy of this will be kept in the file.

Evan Gefell, Engineer went over the stormwater pollution prevention plan with the board. He stated that it captures basically everything on the site as the natural flow is flowing down the southwest corner. The base of the design is to design up to the 100 year storm. A small sliver of the western line shows being in a wetland and they believe they are staying out of that area.

Kevin Olvaney, Watershed Program Manager Canandaigua Lake Watershed Council, stated that "one of the big things with the national wetland inventory mapping is that it doesn't officially designate whether there is or is not wetlands there. One of the things that I've heard about with this project and knowing drainage issues in this area that we have to keep as many of the wetlands in this area as possible for stormwater storage and water quality filtration. One of the requests that I suggested to the town when the stormwater report came in originally was what I saw on there was no delineation that had been done. There was no wetland delineation. I think it's critical especially with the NWI mapping showing that there's defiantly wetlands in that area. We've had mistakes in the past where wetlands have been filled in either intentionally or not intentionally elsewhere, not here. We really want to make sure we don't follow those same mistakes again because those wetlands are critical to downstream folks and the lake itself."

Chairman Harvey stated that he doesn't think there is anything bad in the SWPP. The board has not seen all the comments that were sent by Kevin Olvaney and asked Kevin to hit on the rest of the comments.

Mr. Olvaney stated that one thing that should be looked at more closely are the Curve Numbers that are utilized to determine predevelopment runoff rates for the site. "A curve number is an engineering component of the overall runoff equation that's predicting potential for runoff. It's an evaluation of existing land cover plus the quality of that land cover. When we look at this and the ratings that were placed on the curve numbers for several of the areas that were multiple acres their suggesting that there's poor woods conditions and poorer conditions elsewhere. That raises that curve number with

the existing runoff. So therefore predevelopment runoff and post development may be closer based on that evaluation. I would argue when they look at poor vs. good the rating of poor for woods when you look at the federal manuals on this, that there's a regular burning and grazing of all the underbrush in that area. Well we know there's not regular grazing or burning in these areas. So therefore I think a rating of poor is incorrect. What that does ultimately is there saying that there is more runoff occurring off this site during existing conditions. Which reduces the size of the pond that will be necessary to meet the post development runoff conditions. That I think is a critical feature just to make sure we get the numbers right. Because there are existing drainage issues in this area that we want to make sure this development is not going to exacerbate. I think there's defiantly reasonable ways to make these adjustments. Another piece that I think should be looked at as part of the overall plan again there's existing ponds on site potential for drainage improvements is that this is part of a common plan of development that this expansion parking area should be looked at with all the other pieces of the puzzle to make sure that there aren't over all drainage issues being generated by this landscape. This lot is 74 acres in size. The drainage area that gets to the County Road 18 culvert is about 500 plus acres in size. So by no means is the existing drainage issues being caused solely by this plot of land. There is a lot of drainage to the east and to the south of this parcel that also impacts the existing drainage issues in the area. So what I'm suggesting is that making improvements to the overall SWPPP to try to better handle the drainage on this landscape will help the overall situation but will not solve entirely by any means the existing drainage issues in that area."

Chairman Harvey asked Mr. Olvaney to share the maps of that area showing what the watershed looks like.

Mr. Olvaney brought up several maps and explained each map with the board and public.

Mr. Olvaney stated that it would be wise to meet Enhanced Phosphorus Treatment Standards as part of this development proposal.

Mr. Gefell stated that "we agree and we know that this is part of a bigger system. In our SWPPP we've taken what Brian has done. We calculated the 20 acres plus the new development. And with the current number knowing that the soils are poor, rated C's and D's, that's why we used that curved number just because we know that the soils are pretty poor there. Utilizing what he's done above we took that into account because it's all coming to the same spot and if it compromise what we proposed

there everything will go upland and that's not good for anybody and we want to capture that."

Chairman Harvey stated that the SWPPP in his estimation should take into account what he has already developed. It should have been in the original drainage report. The construction to date is not the preexisting condition either.

Mr. Gefell stated that he will confirm with the engineer that ran that to make sure what they are proposing now takes that into account.

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

Kathy Baxter-"I have two properties off of County Rd 18 on Lincoln Hill Road. I'm particularly concerned with the parking lot that's being proposed with an exit onto County Rd 18. Primarily because of traffic, particularly during the summer during the concert season. You get two events going on at the same time and you got a major problem. I don't think that a lot of the people who would be effected by this where aware of this at all. Because the parking issue came up in the last meeting that agenda was not available online because it had not yet been approved so people did not have access to it. I think that would be objected to greatly by people living along County Rd 18. I also would say that Mr. Mastrosimone to me has pushed the limits of his Special Use Permit already and I would appreciate it if the Town would take that into consideration when giving him the ability to develop that property more. Thank You."

Chairman Harvey asked if she had any thing specific in that regard.

Kathy Baxter-"Theres been noise complaints regarding that property. We can hear them all the way down on Lincoln Hill Road. I know there have been times when people have complained of it going beyond the hours that it's suppose to. It also was a Special Use Permit to my understanding to be a brewery and a farm stand. It is much more than that and continues to grow."

Chairman Harvey stated that he does not believe there has been any approval for a brewery. "He has talked about it but at present does not have a brewery there."

Kathy Baxter-"Primarily it is a venue for events. Which initially was stated it would be occasional wedding here and there. It just is not what was stated initially."

Tim Vaughan-"I also live on Lincoln Hill Road and I'm concerned about the traffic as well. They did a study for traffic with the Canandaigua Shores and I think primarily my concern two spots County Rd 18 and 364 if you get a lot of traffic with an additional parking lot coming down that hill that can be an issue at that intersection. Especially if Canandaigua Shores ever gets approved at some level. The other

is at the ingress egress off of County Rd 18 is there going to be a trigger point kind of like when there's a CMAC concert that Ontario County Sheriff needs to be posted there to monitor the traffic coming in and out of that driveway. It could be significant that it could cause as she mentioned significant hazard along there. And I can tell you trying to get out of Lincoln Hill Road onto County Rd 18 especially during concerts and even other times can be quite lengthy. Second point is again kind of touching off of what she said. I think when the sketch plan was presented to the board in April 2017, as a brewery and farm market it's morphed into something quite a bit different 5 years later. I think the town zoning local law that talks about Special Use Permits has several items that should be considered and discussed and has conditions for those. Such as, the farmer market, which obviously has been talked about, campgrounds, outdoor recreation facilities, which include open air theaters. Which the Ontario County Planning Board said that the expansion was an open air amphitheater and retreat conference center. So each of those in the town code has conditions. And I think if what is planned does not meet those conditions, I will leave it up to your expertise, but should that not require a plan to go before the Zoning Board of Appeals before it comes back to you as approving a Special Use Permit or not."

Chairman Harvey explained that only if a variance is required.

Tim Vaughan-"I would ask that you look at your own code regarding those special use items. High tide raises all boats. You know maybe bringing lots of money to the area is good for everybody except when it interferes with neighbors and what not. That's my two cents on the project. Thank You."

Joseph Benge-"I live on County Rd 18 just below Lincoln Hill. I brought up things at the last meeting in the way that Lincoln Hill had been running with looking forward with the renewal permit and the effects of what Lincoln Hill has done to myself and Mr. Payne over the last few years with the water runoff. I just want to emphasize on, I've seen in the last few years being at a few of these meetings and going through all the minutes that we've been told one thing and we're not getting exactly that thing. So I'm concerned going into the future. If you review the minutes you can see what Brian states that music is going to end at 10PM. Giving the people an hour to leave and keep it quiet. He was going to have 40 to 50 events. He exceeds that. And there was going to be no events on weekdays during the nights. And that's not what we've gotten either. And you can go back to the initial brewery aspect. I just get worried of more coming and what assurance the neighbors are going to be given for that and what we're actually going to get

from it. The board told Brian in 2018 that you're not here to stand in front of business growth but you are here to protect the neighbors. And that is why we are all here addressing our concerns. My other concern is definitely with the water cause I feel greatly affected with that and I understand that Brians not the top of the mountain. Water comes from elsewhere as well. I came in and built my house around the same time Brian started building too. So I don't have the longevity of the years prior to Lincoln Hill to see the effect of it I just have steadily seen it getting worse. Mr. Payne can speak on the behalf of the tides of water coming across his garden in heavy rain falls, which was never happening before. My other concern is where the tile line that got put where is that going and how much that affects? And the shrinking of the pond. That was in 2018 listed as a rainwater retention pond for the parking lot. So where is that water going now? And is the shrinking of that pond put into the calculations of what could come. I'm more concerned about how things have been going let alone even more coming."

Chairman Harvey stated to Evan Gefell that he would like him to address to the board is the existing storm water pond functioning the way it was originally envisioned? It seems to be very near capacity most of the time.

Mr. Mastrosimone stated that it is not even close to capacity.

Chairman Harvey stated that he would like the storm water pond addressed.

Joe Benge-"In 2019 you stated to Brian that he had two years for sewer or septic to continue on. That's coming up onto 3 years. What's the stipulations on that while you're looking at a renewal?"

Chairman Harvey stated that they will have to discuss that. "I think he has got to address that also with the New York State Department of Health at least for the campground. Because they want a permanent solution don't care if it's an onsite system or hooked up to municipal sewer he's got to have some type of permanent solution."

Brett Johnson-"My recollection when I came to the meeting when Brian first applied the transportation DOT issues were satisfied by both your board and Brian with an agreement that they wouldn't run on the same nights as CMAC was running. If I recollect that was part of what was in your pass."

Mary Schultz-"My property is both on Lincoln Hill Road and borders County Rd 18. So I think Lincoln Hill Farms brings some value to our community. I have enjoyed going there myself. I hope they are allowed to continue. I think they're a draw for our community and I know many of my friends enjoy going there

too. I don't personally have any complaints currently except I do have the concerns about the water runoff if there's going to be a lot of construction. I don't know who is to blame for the water issues we have on our property currently. We do have once or twice a year we do get a lot of runoff. We've had to reconstruct our own swale a couple times because it fills in. And so has the Town of Hopewell on the swale along the front of our property and then they had to reconstruct the whole County Rd 18 that flooded a few years ago."

Chairman Harvey stated that that was an engineering mistake with materials that were used in the culvert under County Rd 18 that caused that.

Mary Schultz-"I have a question. With the parking expansion would that be a permeable surface or a nonpermeable surface?"

Brian Mastrosimone stated that it will be just grass. "Around the grass will be stone so people can drive on the stone to get to a parking spot. Everything else would be grass. Which is a huge expense for Lincoln Hill Farms but because we're mentally aware that to put the whole thing as gravel or blacktop would be a bad idea. So we are going to do grass, which is a lot of upkeep and mowing."

Cliff Payne-"4122 County Rd 18. Just like to address the water issues the main thing right now. If we can do something with that. Joe has done all he can do west of myself to 18 on another property at his expense. We are trying to do everything that we can do. We can't route everything. Brian is doing what he thinks is right too."

Chairman Harvey stated that it is a tough area and there is a lot of wetlands in that area. "The grades show very similar elevation on your property from some of the wetlands. Creating more drainage just pushes the problem down hill unto somebody else. I know the Supervisor and Kevin Olvaney from the Watershed Council is really willing to take a look and try to see if there is something that we can work with Brian and some of the other property owners to create some more detention in that area to try to alleviate the problem."

Kevin Olvaney-"We can always look at solutions. We're looking at solutions quite honestly a separate drain area with Bob Vanderlande to the south. We defiantly want to work with the neighbors in that area to figure possible solutions or mitigating factors. I'm willing to come out and do site visits with anybody walk the site and take a look at it and work with Brian and his team to look at his landscape and figure out ways to mitigate and reduce any impacts."

Chairman Harvey stated that the only thing they can hold the applicant to is not making the situation worse. "However

we'll recognize in the meetings the town has had with him and Kevin's had that he's willing to work with us and try to see what else can be done regionally. We appreciate that."

Joe Benge-"I just want to add. It may seem like it's a personal attack. I'm not trying to like destroy someone's dreams. We all came here with are own dreams to live here. There are some of us that are a lot closer to Lincoln Hill than others. So we're greatly more effected by noise and things of that such. This is I find the appropriate way for myself to fight the dream that I'm building with my family. I'm not trying to just draw somebody down. If I disagree with what's going on I'm trying to be polite and proper about it."

Chairman Harvey stated that the Planning Board is here to work with the applicant and to make sure he doesn't have a detrimental impact on the neighbors.

Ann Marie St.George-"I just want to say that as you worked with Brian in the past he is willing to work with the community. I know what these people are saying is not a personal attack. They'll have their concerns and Brian is listening and that is one of his biggest assets. Thank you for listening."

Jon Willis-"Just a very small detail I want to address. I do handle the music side of the venue for Brian Mastrosimone. And at one point during the meeting somebody mention that the music goes over it's time limit. And what I can tell you I've been to every single event minus two since he's been since 2019. And I am standing at the sound board at the end of every single show coordinating when it ends. And I can tell you from experience that we have never went over on the timeline for music noise."

Chairman Harvey stated that this is a renewal and there are still some things that need to be worked out.

Brian Mastrosimone-"We 100% had the wetttest summer ever. So all the water that we're talking about and I am 100% going to do whatever it takes. Kevin I wish you had given me that a little bit sooner than 1:00 this afternoon. I could have had better answers for you. We had the wetttest summer in history of keeping track of rain. Kevin you just said there's 500 acres upland. I'm 74. Tom I don't know if you have been to the farm but the amount of work I have done on the farm to where it was when I initially came isn't as much as you think. There's no like big buildings. There's minuscule things that are there that are dumping into the big pond that has yet to overflow. Never once overflowed with the largest rain fall in history. So I will definitely get Kevin what he needed. I'm doing the best I can. Never once went over noise. It's impossible to coordinate with CMAC because CMAC doesn't put their schedules out till weeks before hand. The second parking lot would actually reduce

the traffic in a lot of different ways. It would give people different options. Trust me I don't want to. This isn't a cheap venture to add this. The reason why we are doing it is to keep it safer. Is to make sure that people aren't driving all over the place. There's two different entrances. It's just safer for the community. The water I get it but it's not me. I mean it could be part me but there is 1000 acres 500 acres immediate I'm in a 1000 acre waterfall essentially and we had the wettest summer in the history of records. I can't keep emphasizing that so to say that it's Lincoln Hill Farms because we have a couple tile drains leading into ponds that are not overflowing is silly to me that's all. Kevin on 18 prior to Lincoln Hill even existing what was the water like?"

Kevin Olvaney-"In 2017 was the big year we had that CMAC event there was no doubt I remember going up there the sheriffs let me through because there was flooding in that whole area. There's no doubt during these major events on these heavy soils you're going to get flooding in large sections of these areas that are flat."

Brian Mastrosimone-"Just to make everybody aware I wasn't even open in 2017. There wasn't even construction in 2017. So it just gives you an idea that the issue existed prior to that. I just want to emphasize because everybody keeps emphasizing the water that Lincoln Hill Farms is creating. But I just don't think that the water is, it is a raindrop considering what really is happening in this area. And if I do move forward and put in an extra retention pond it's only going to make it a better situation than the current situation."

Kevin Olvaney-"If I could point out we got the storm water report on January 18. I was under the understanding that there was going to be a wetland delineation report as well. So I was waiting on my comments for the wetland delineation report that I felt was going to occur. But they ended up just using the national wetlands inventory mapping, which I think we deemed inadequate. So Brian I think that's where the misunderstanding was."

Brian Mastrosimone-"If it sounds like I'm attacking you Kevin I apologize. I just got beat up for 45 minutes so and I have nothing to say because I just got your report and I wish I could have gotten it in just a little bit more so nothing to do with you personally. It's a little frustrating on my end knowing like this was a big problem prior to Lincoln Hill Farms and I'm not adding on in my opinion. I will prove that with Evan's report."

Kevin Olvaney-"And Tom you know we do this all the time. The biggest thing is just try to make sure if we have an existing issue to drainage issues that we don't approve things

that exacerbate those issues. That's what the Planning Board is doing and we're providing technical assistance."

Chairman Harvey stated that is our commitment to the community at large. "You have the issues you've heard today. Our side, I heard the comments about looking at the Special Use Permit criteria so that's on the board to go through that. I will work with Jim Morse and we'll make sure we are following our own rules and regulations on what's required. We'll expect you to go back and forth a little bit and make Kevin happy if that is at all possible. Resolve that issue and bring it back to the board and we'll get on with this."

Evan Gefell stated that he will connect with Kevin and coordinate on this.

Chairman Harvey stated that the board also will want to know their limits. "What's the maximum crowd size? How many events a year? Let's get a reasonable number out there so that the community is comfortable with it and we're holding it to it so everybody has an expectation of what the season is and what the size of the venue is."

Chairman Harvey adjourned the public hearing to be reopened on February 28, 2022, at 7:30PM in the Gorham Town Hall.

#### MISCELLANEOUS:

Douglas Eldred Scenic Ridge Rise, request preliminary subdivision for 80 lots on 55.57 acres on State Rt. 364.

Douglas Eldred, Scenic Ridge Rise was present and presented a draft scope document.

Chairman Harvey stated that the board has to pass the draft scope on to the involved and interested agencies for review and give them 30 days for their comments. Then the board has up to 30 days to finalize it.

Chairman Harvey stated that he will draft a letter for the secretary to send with the scope to the involved and interested agencies.

Chairman Harvey stated that the board should schedule a public hearing for February 28, 2022, on the draft scope for the public to give comments.

Mr. Kestler made a motion to adjourn the meeting at 8:54PM. Mrs. Harris seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary