

MINUTES
TOWN OF GORHAM PLANNING BOARD
August 28, 2023

PRESENT: Chairman Harvey Mrs. Rasmussen
 Mr. Farmer Mrs. Harris
 Mr. Kestler

EXCUSED: Mr. Perry Mr. Hoover

Chairman Harvey called the meeting to order at 7:30 PM. Mrs. Rasmussen made a motion to approve the July 24, 2023, minutes as presented. Mr. Kestler seconded the motion which carried unanimously.

The Zoning Board of Appeals is asking for a recommendation from the Planning Board on Application 23-102, Kelly Bateman, owner of property at 4263 Co Rd 18, requests an area variance to subdivide parcel into three lots. Two lots do not meet the required road frontage.

Kelly Bateman and Anthony Venezia, surveyor were present and presented the application to the board.

Mr. Venezia stated that they are proposing a three lot subdivision on County Road 18. They would like to cut two lots off the backside of the property. They would like to create a right of way agreement that would service the two back lots.

Chairman Harvey stated that a variance is required to accomplish what they are proposing. He explained that the Code Enforcement Officer has made that determination. What they are proposing is not allowed in the Zoning Code so a variance from the code is required.

Chairman Harvey stated that they have not addressed the driveway spacing and how it complies with the Town's Access Management Plan. This proposal does not comply. He would like to see one access point that serves all three parcels. Having a straight line all the way down for the right of way is easy to draw but is the worst thing that can be done from a soil erosion and stormwater management point of view. They will need to do something different to capture the stormwater. He explained that he would have to see the driveway design before he would agree to a private right of way. The private right of way will have to comply with the standards in the building code for emergency vehicle access and turnaround.

Mrs. Rasmussen asked if the existing lot since it already has a septic system can be less than 5 acres because the size of the lots depends on the perk rates.

Mr. Venezia stated that he does not know the perk rates of the existing septic system.

Chairman Harvey stated that they will have to provide the perk rates for the existing septic system.

Mr. Venezia asked what they would be asking the Zoning Board of Appeals for as far as a variance.

James Morse, Code Enforcement Officer stated that they are requesting a 100% variance for frontage.

Chairman Harvey stated that the New York State Real Property Law requires every property to have at least 15 feet of dedicated frontage on a public road. Municipalities where Planning Boards exist and have subdivision regulations it allows the Planning Board wide discretion on determining the adequacy of access. He stated that if his concerns are addressed he is not particularly against the proposal as long as there is adequate provision for maintenance and it is very clearly spelled out. It must comply with the Access Management Local Law. Given the topography the design of the private road should not be just a straight shot down the hill.

Chairman Harvey made a motion to recommend to the Zoning Board of Appeals that any approval of a variance have the following conditions: 1. The driveway will serve as a single access point for all three parcels in compliance with the Town of Gorham's Access Management Local Law. 2. The design of the driveway/right of way location is to avoid a road perpendicular to the contours to address stormwater management concerns. 3. Perk rates in the native soils need to be done on the existing lot one to determine the acceptable lot size. 4. The driveway must be designed to meet the building code requirements including a turnaround. 5. The deeds should describe clearly for all three lots the maintenance responsibilities for the driveway. Mrs. Rasmussen seconded the motion which carried unanimously.

Scenic Ridge Rise: Planning Board comments on the Draft Final Environmental Impact Statement.

Douglas Eldred, Developer and Alan Knauf, Attorney were present.

Mr. Eldred started out by explaining the format of the Final Environmental Impact Statement. The FEIS is answering all the comments that were received on the DEIS.

Chairman Harvey explained how he would like the numbering system on the FEIS.

Mr. Eldred stated that the biggest change as far as the neighbors are concerned is there had been proposed a trail along the north property line.

This trail is being eliminated and a sidewalk is now being proposed along the roadway and a trail will connect to the sidewalk. There will be no sheds built along the property line of the East Lake View Estates. This will be spelled out in the HOA agreement. There will still be a swale along the northern property line. This swale will be maintained and mowed three times a year.

Mr. Eldred presented a chart comparing East Lake View Estates to Scenic Ridge Rise.

The project size East Lake View Estates is about 35.9 acres. Scenic Ridge Rise about 55.57 acres. There are 62 lots in East Lake View Estates and 80 in Scenic Ridge Rise. The raw development density for East Lake View Estates is 1.73 units per acre and Scenic Ridge Rise is 1.43 units per acre. The open space in East Lake View Estates is about 28% of the site and the Scenic Ridge Rise is 46%. The lot sizes are bigger in East Lake View Estates at .35 acres on average and Scenic Ridge Rise is about .27 acres. As far as the property line to the closes house East Lake View Estates is within 35 feet and Scenic Ridge Rise is 80 feet. If Scenic Ridge Rise was built at the same density and East Lake View Estates the number of homes would be increased from 80 to 96.

Mr. Eldred presented and reviewed a handout covering some of the questions and comments that were received on the DEIS.

Adequacy of Tree Survey.

The tree survey was done by a licensed forester. Other than area I, which is the woods in the back there are mainly white ash trees that are dead or dying due to the Emerald Ash Borer.

Calculation and Quality of Open Space Areas.

The raw calculation is 46%. After subtracting the stormwater management area, storm sewers, culverts, and swales the open space is 34%.

Consistency with Comprehensive Plan.

It was determined that this property should be zoned R-1 with 15,000 square foot lots. There was an additional regulation with a minimum of 30% open space.

Use of the Town Conservation Subdivision Regulations.

The whole purpose of Conservation Subdivision is to save environmentally sensitive areas.

Chairman Harvey stated that the conservation subdivision is also in place to conserve the use of land and creating more open space. The conservation subdivision development is 31.7.8 in the town code. Conservation Subdivision Development, as defined as Cluster Development in Section 278 of Town Law, is encouraged in order to preserve open space, preserve prime agricultural resources and active farming operations, recreation areas,

scenic views, and forested areas while creating more efficient and livable neighborhoods.

Why hasn't the Town considered rezoning to a lower density?
This is consistent with the Comprehensive Plan Recommendations.

The Town should consider putting the parcel in a Conservation Easement.

Most of the property is not environmentally sensitive.

The Town needs to update its Stormwater Management Regulations.

The development is consistent with the New York State Stormwater Design Manual in addition to the Town requirements.

The Developer indicated that he would go broke if he were to develop at a lower density.

The zoning does provide guidelines on how many units you can have. To be fair to all parties you stick to the zoning requirements.

Concerns with north open space HOA parcel A, its trail, swales, and proximity to East Lakeview Estates.

The trail to the north has been deleted. There will be no sheds along East Lakeview Estates.

Emergency access drive function and maintenance.

The access drive is part of the trail system. Once you get to the pond people walk down it.

Chairman Harvey stated that there needs to be a crash gate separating them and leave the man entry.

Sidewalk along State Rt 364.

Location of crossing and sidewalk is determined by NYSDOT. The reason it is being proposed on the west side of the road instead of the east side is because there is no obstruction on the west side of the road.

Chairman Harvey stated that this will be handled during the subdivision approval.

Visitor parking.

Each home will have a 2-car garage and space in the driveway for 2 additional vehicles. No other off-street parking is being proposed. Occasionally if someone is having a party there may be some parking along the street.

Limit of disturbance.

This is not specifically shown on the plans. There's a point near the clearing where it stops so that is the limit of disturbance.

Height of streetlights.

The height of the streetlights are 18 feet, which are pedestrian friendly. Lowering them reduces the area illuminated by them. Chairman Harvey asked how close they are going to the intersection on State Rt 364.

Mr. Eldred stated that there would be a light right at the intersection back 20 feet.

Mrs. Rasmussen stated that she feels he needs to change the style of lighting because she feels that a colonial lantern is not dark sky compliant.

Mr. Eldred stated that they are if they have the right hood on them.

Mrs. Rasmussen believes that there are other choices that are much nicer looking.

Chairman Harvey stated that this will be handled during the subdivision approval. When you come off of State Rt. 364 and look up the hill he will want to know how Mr. Eldred is going to design the layout so that the lights are not shining in the drivers eyes.

Conservation easements.

There will be the required open space areas. The open space area will included deed restrictions within the HOA documents to prevent them from being cleared.

Establishment of Homeowners Association (HOA).

The HOA cannot be completed until all the comments from the Planning Board are received. All restrictions will need to be put into the HOA document.

Chairman Harvey stated that there will be discussion on the HOA during preliminary approval. The HOA will be approved during final subdivision approval.

Mr. Eldred stated that outside storage of RV's and trailers will not be allowed. Above ground pools will not be allowed. In-ground pools will be allowed with safety fencing. The HOA will determine if fencing will be allowed and what type of fencing.

Noise and Air Quality.

Construction noise will occur during infrastructure and home construction. The construction hours will be limited to sunup to 6PM. There will be no construction on Sundays and holidays and any other restrictions the Planning Board puts on the construction time frame. The contractors are required to maintain their equipment in good order.

Chairman Harvey stated that the Planning Board will require that the earth moving equipment to be equipped with white noise alarms as opposed to the standard noise alarms.

Mr. Eldred stated that as far as air quality they do require the use of water to keep the dust levels down and they require the disturbance area to be limited to 5 acres of earthwork stages before they are covered with mulch or seed.

Move development further south away from East Lakeview Estates.

Moving it further south is constricted by the configuration of the property on the west side and there is bedrock on the southern portion of the site.

Road orientation should be parallel to East Lake Road and more Curvilinear.

Homes would be much more visible

Home sizes and affordable housing.

This will be covered more deeply later. The home sizes will be between 1,500 square feet and 2,100 square feet starting at a price of about \$350,000.

Preserve all of the 17 acres of hardwood along the east property line.

They are preserving 7 of the 9 acres of mature hardwood and brush and trees 500 to 700 feet along the east property line.

Hard packed trails will attract dirt bikes.

The HOA will not allow the use of dirt bikes on the trails.

No buffer planned to 4015 East Lake Road.

There is not a lot of room along there and there is existing trees on the 4015 East Lake Road property line. There may be room for one row of trees.

Bedrock consideration.

There will be minor infiltration due to dense soil. Surface water will be intercepted so the amount around the homes will be reduced. Recommendation for homes in bedrock. They will provide positive drainage away from all sides of the homes. The front downspouts will discharge to the storm laterals and the rear downspouts to splash blocks a minimum of 10 feet away from the house.

Chairman Harvey asked what's the standard to which you are going to excavate and provide drainage around the foundation to intercept the water before it gets to the footer drain. That is one thing that needs to be addressed.

Mr. Eldred stated that they can put exterior foundation drains in. Those drains would intercept any water that's not under the basement floor.

Stormwater management features exceed NYDEC stormwater quantity control regulations and design for 200-year and 500-year storms.

This requires having Overbank Flood Protection that's to reduce 10-year existing storm without discharging to the emergency spillway. Also required to have Extreme Storm Protection to provide detention of 100-year storms to or below pre-development conditions.

Confirm capacity of the stormwater pond is available above the groundwater elevation in the stormwater management ponds. They did have one test pit where the south pond showed slight seepage. It happens by design that the water surface is at that level so all the storage for detention is above the ground water elevation.

Runoff rate is increased for 2-year design storm-is this acceptable to NYSDOT.

It's not typical that a 2-year storm increases above existing conditions. In the case here there was a slight increase. And the reason for that low flow device coming out of the pond is a three inch diameter and that is recommended as the smallest diameter to use.

Locate a stormwater pond in the upper area of the project to intercept the upstream stormwater runoff before it hits the housing.

That is a good idea if it could be put right after the farm field but unfortunately it would require removing mature woods or constructing the pond in the bedrock area of the project.

Mrs. Rasmussen suggested that he take out a couple of the housing plots on the top for the pond.

Mr. Eldred did not agree to that. He explained that the capacity of the drainage swale going around that area is 100 year storm capacity.

Have more swales between the houses-every third one. Swales having a minimum depth of 1' are proposed on every lot line.

Chairman Harvey stated that the stormwater will need to be managed to go around the buildings and not into them.

Mr. Eldred stated with respect to the individual homes there is no upstream drainage from one house going across the yard of a downstream house. All the water will be intercepted. Regarding the stormwater management ponds there is a route that takes it out to State Rt 364 without impacting any of the houses.

Use zero phosphorus fertilizer. Only zero phosphorus is to be used during and after construction. Fertilizer containing phosphorus is illegal in NYS.

Sequence of Construction: Step 1 is out of order. Clear and grub for installation of interceptor swales is listed after installation of interceptor swales

The final plans will be revised to comply with this comment.

Additional silt fence needed in downslope areas. The final plans will be revised to comply with this comment.

Location of concrete truck washout not indicated. The final plan will be revised to comply with this comment.

Mr. Eldred stated that he will comply with the three comments above by adding some silt fence, washout truck area and by changing the sequence of construction slightly.

How will runoff water, especially into the lake, be controlled during the construction process?

The stormwater management ponds will be constructed prior to upstream clearing and grading alterations. When doing the upstream disturbance you can only disturb 5 acres at a time without putting in stabilization.

Chairman Harvey stated that the diversion swale needs to be in and stabilized first so stuff coming off of the farm fields to the east needs to be diverted and captured prior to the rest of the site work being done.

Mr. Eldred stated that wherever that 5 acres is disturbed there will be a diversion swale upstream of that 5 acres. There isn't any water coming from the uphill lands that goes across the bare ground.

Chairman Harvey stated that needs to be integrated in the response to those questions.

Justin Martin from the public asked how many people the current water station at Deep Run is built to serve.

Fred Lightfoote, Town Supervisor stated that there is significant additional capacity there. There is plenty there for this subdivision plus.

How will East Lakeview Estates property be protected from runoff from Scenic Ridge Rise property during and after construction?

There is no drainage that goes from Scenic Ridge Rise to East Lakeview Estates. In fact if East Lakeview Estates ditches along the north property line overflow they would come into Scenic Ridge Rise ditches.

HOA rules should incorporate lake friendly living rules. The HOA by-laws will encourage individual homeowners to join Canandaigua Lake's Lake Friendly Living Program. The project sponsor agrees to use lake friendly living practices for selection and maintenance of plant materials on HOA parcels.

Maps used for reference are not up to date. They may not show conditions caused by heavy rains. Topography and tree growth and vegetation may not be accurately represented.

Current aerial photographs and site walks and 45 years of experience was used to make sure that all the storm conditions are taken into account.

Grasses increase runoff and pollutant transportation.

This is not true. The denser the vegetation like grasses actually reduce runoff. So there is less runoff from grass areas than there is from sparsely or heavily vegetated scrub brush.

Retain forest/shrubs on NE and SE sides.

The proposed design retains forest and shrubs on the NE and SE sides of the parcel.

A professional hydrologist is needed to analyze natural springs and streams.

The project sponsor's engineer has over 45 years of experience in the analysis and design of stormwater systems. No natural springs were observed onsite and there are no streams onsite.

More clear plans needed for stormwater management (including elevation changes/pitch/storm drains).

The plans completely comply with the engineering standards of the town and all these things are shown on the plans.

Drainage swale ownership and maintenance.

All the swales are on HOA lands. The HOA will maintain them for appearance and making sure that they are kept clean and mowed at the appropriate times. There will also be a drainage easement to the Town of Gorham if they have to come in on an emergency bases which would be charged back to the HOA.

Town has not kept up with Stormwater regulations to account for increases in runoff.

The town regulations are very good. They are designing to the 200-year and 500-year storms.

Culvert in front of 4015 East Lake Road overflowing during recent storms.

That is true and the project sponsor's engineer is very aware of that problem. That is one of the reasons his rate reductions is far below existing conditions for his property.

Sidewalk along NYS Route 364.

NYS DOT will dictate the location and design of the sidewalk and will determine if the crosswalk or other prior notification measures will be required.

Additional traffic controls recommended.

Additional traffic controls including (1) signage notifying motorists of East Lakeview Estates and Scenic Ridge Rise access roads, reducing the speed limit; (2) signage for no parking zones on the shoulders to preserve pedestrian/bike traffic on the shoulders, and (3) no passing zones were recommended. The project sponsor will raise these issues with NYSDOT during their review process. NYSDOT determines what controls will be required. Citizens could also raise these issues directly with NYSDOT.

Traffic study done during COVID and also not during the summer busy season and additional development not considered.

The traffic counts during COVID were increased to account for the additional traffic. The daily summer traffic can be heavier during the summer months. The peak traffic volumes are during the commuter AM and PM times. They design for peak conditions.

The requirements for a traffic study is to take into account any approved plans and on top of that they add a growth factor for potential approvals of development.

Overall concerns with traffic and concerns with potential additional development in the future.

Anytime a new project is proposed a new traffic study would have to be done. Typically NYSDOT requires traffic improvements whenever the level of service is decreased.

Inconsistent water supply and pressure.

There are three tiers of mitigation proposed. The issue is with homes in the upper elevations. In those upper elevations where there is a heavy use on State Rt 364 it takes away the pressure that gets the water up to the homes in the upper elevations. So the best mitigation is to tie into a water main that is based on a higher tank elevation that could supply those extra homes with additional water. That is available at Turner Road about 2500 to 3000 feet away. The second alternative is to put booster pumps in for the Scenic Ridge Rise project that would maintain some level of water when there is heavy usage on State Rt 364. This should be considered a temporary measure. The better measure is to have the connection over to Turner Road. There are two ways to get the connection to Turner Road. One is to wait till the land gets developed to the north that is part of the natural process and two they approach the town to propose the construction under section 202B of town law. Mr. Eldred does plan on getting a letter to the town board to be on their next meeting to discuss his request for water.

Inconsistent Electric Supply.

Mr. Eldred can't speak for NYSEG but they may try to improve that by doing some interconnections. He can't talk to NYSEG until he gets to the point where they will talk to him. They will not talk to him until he gets some Planning Board approvals.

Provisions for solar and geothermal power.

The homebuilder does not have any standard applications for that. However, the HOA by-laws encourage their use and can be installed by a separate contractor.

Analysis of Geothermal energy supply.

Mr. Eldred is looking at geothermal on a project wide bases. The most probable way to do geothermal on a project wide bases is to drill two wells. One well to suck the ground water out of the well goes through a heat exchanger which creates electricity and that water goes back into the second well. The wells need to be at least 200 feet apart. The payback period is typically 10 years.

Chairman Harvey stated that allowing green energy on the open space parcels bares a little more discussion.

Affordable housing considerations.

Mr. Eldred reviewed the report titled "Housing needs Assessment-Ontario County NY". There are different categories. Low-income households earning less than 80% of AMI. Very low-income households earning less than 50% of AMI. Extremely low-income households earning less than 30% of AMI. AMI is the area medium income. The study notes that 40.9% of Ontario Count residents earn less than 80% of AMI. Therefore, there is a substantial need for affordable housing. Subsidized for sale homes and rental units necessary to house low-income categories are in short supply in the County and the Town of Gorham.

Chairman Harvey stated that there is such a demand for housing in Ontario County that empty nesters, senior citizens don't have a place to move to or cant afford to move into something new. This has clogged up the whole system. Bigger houses that families would move into are in short supply because people are not moving out of them into something they can afford.

It was discussed that the Planning Board members get all their comments to Chairman Harvey he will make a draft of all the comments and will meet again for a special Planning Board meeting on September 11, 2023, at 7:30PM in the Gorham Town. It will be a one item agenda to finalize the comments on the draft final environmental impact statement.

Mrs. Harris made a motion to adjourn the meeting at 9:04PM. Mr. Farmer seconded the motion which carried unanimously.

Thomas P. Harvey, Chairman

Sue Yarger, Secretary