

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

**July 2, 2009**

**Members Present:**

Reynell Andrews  
Lee Bergus  
Susan Cleaver  
John Lupinski  
Raymond Myruski, Acting Chair

**Also Present:**

Neal Halloran, Building Inspector  
Sean Hoffman, Engineer  
Ed Garling, Planning Consultant  
Robert Fink, Esq. (representing the PB  
on the Owens Road application)

**Absent:** Ralph Huddleston, Mary Israelski

**Heritage Estates – Possible extension of preliminary approval**

Mr. Halloran said that Heritage Estates has requested a six month extension on their preliminary approval and are before the Town Board for their water and sewer district.

**VOTE BY PROPER MOTION**, made by Mr. Bergus, seconded by Ms. Cleaver, the Town of Goshen Planning Board grants a six month extension, to January 7, 2010, on the preliminary approval granted to Heritage Estates. Approved unanimously.

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

**Goshen Properties, Houston Rd.**

Mr. Halloran said that at a recent pre-construction meeting with Town consultants, Goshen Properties discussed the width of the road and profile. Mr. Hoffman said that in a memo to the PB two weeks ago, the applicant wanted to reduce the shoulder to decrease impervious area and to help them construct the drainage swale. He said the consultants think this goes with what the PB wanted to do and suggested approving it as a field change. The new shoulder will go down to 3 ft, to a 12 foot lane and a 3 ft. shoulder and grass. There will be 15 ft. on either side of the centerline of the 24 ft. wide road. The code allows for this type of field change, he said. The PB agreed to include it as a field change.

**Owens Road/Goshen Meadows – 10-1-10.22 & 10-1-8 – 131.4 +/- acres, 31 lot subdivision located on Owens Rd in the RU zone with an AQ6, AQ3, scenic road corridor and stream & reservoir overlay. Possible Conditional Preliminary Subdivision Approval.**

The PB was sent a proposed resolution and final plans for conditional preliminary approval. Mr. Hoffman said that at the June 4<sup>th</sup> meeting, the PB closed the public hearing. He said that the applicant prepared a draft resolution, which was reviewed by the consultants who provided input. It has been distributed to the PB as a red-lined version. The applicant provided detailed engineering plans for the 31 lot subdivision, he said, and his office sent a detailed technical memo regarding water testing, the emergency access road, storm water and easements.

Ms. Cleaver expressed her concern with the design of the trolley line as an access for emergency vehicles, saying its layout and maintenance is cause for confusion. Mr. Hoffman said the design of the emergency access road is not complete and that the proposed conditional resolution states that the design will be reviewed by the PB with input from emergency services, the highway department and town engineer. He said emergency services will primarily access the site from the main entrance, that the trolley line will be a secondary access. It was noted that the location of the gate has not been decided, nor has the maintenance issue.

Mr. Garling said that Ms. Israelski submitted comments regarding the chip issue, potable water, water quantity, trees, street plantings, ponds in place, and limits of clearance established on each lot, saying that some of her comments are final approval issues and others have previously been commented on.

Ms. Cleaver asked that the placement of ESA signs be included as a condition of preliminary approval. It was noted that it is included in the draft resolution.

Mr. Bergus said that a number of the lots have septic tanks coming off the back of the dwellings, precluding building decks, etc., and asked the applicant to locate them elsewhere so as not to obstruct use of the back yards.

Mr. Hoffman said that the County Health Department will give the Town a list of lots they will require to be witnessed, the Town will look at the list to see if there are additional lots it would like included, and in the past the County has increased the number of lots they've done. That way the Town doesn't have to go out a second time, he said, and suggested that it can be done also in this project. Mr. Halloran asked if it could be a condition, as it was on another application

Mr. Fink read an e-mail from PB attorney Rick Golden regarding a language change in General Condition No. 5 for all applications going forward to better conform to State law and the Goshen Code. The new condition language read as follows: “The applicant must submit the plat in final form within six months of this approval. If the final plat is not submitted within six months, the Planning Board may revoke the approval of the preliminary plat, unless such time is extended by the Planning Board.”

The applicant’s attorney, Mr. Barone, said it is his position that a preliminary approval does not expire automatically as set forth in 276(5)(h) of the New York State Town Law.

Mr. Fink told the PB that if it is not going to follow the three recommendations of the Orange County Department of Planning in regard to this application, that it will need a “super majority” in order to overrule them. The PB had not seen the 239 Letter from the Planning Department, dated June 19, 2009. Mr. Fink read the letter which listing the following comments and recommendations:

1. “River access was touted as a public amenity yet the ownership of the total open space area remains undefined. This department urges the Town to assume possession of this important natural resource, a passive park with riverside views provide unique opportunities...”

It was noted that the applicant, because of the change in the Town Code, elected to pay the fees and not give the open space to the Town. Mr. Garling stated that the rationale as to why the PB didn’t require the applicant to set aside that river area was on account of the amount of wetland and therefore the limited amount of useable area for a public park.

2. “Public access and a parking area are not conveyed. While the open space is considerable, the public should benefit directly by being able to access and enjoy being on the Wallkill River.”

Mr. Fink said this recommendation isn’t relevant because of the fact that the open space is not being offered by the applicant.

3. “Due to the length of driveways for lots 12, 17 & 18 as well as their proximity to wetlands,” the Planning Department suggests the use of a pervious material when constructing the driveways.

The PB determined that using pervious materials, gravel or stone, will contribute to maintenance and snow removal problems and not be an appreciable benefit to lots 12, 17 and 18.

Mr. Lupinski suggested that the larger lots be made large enough to allow for some sort of agricultural use, such as a horse barn, suggesting it may make them more marketable. Mr. Esposito said “we won’t rule it out” and that it would make sense on Lot #12. Mr. Lupinski asked that the plans show a larger building envelope for Lot #12 to allow for a house and another ancillary building if the owner wishes.

Mr. Barone said he thinks they demonstrated at the last staff meeting that the main road has adequate sight distance and that the only thing to consider is whether a restrictive covenant is necessary to prevent someone from obstructing that sight distance with planting, etc. Mr. Garling disagreed, stating that adequate sight distance has not been demonstrated, saying that the sight distance is impeded by the curve of the road. He said he is certain there isn’t adequate sight distance and said if the road is shifted 75 ft. to the west, there could be the necessary sight distance for that road. Mr. Hoffman said that it is yet to be determined if the road meets the requirements.

In regard to the draft “Resolution of Conditional Preliminary Approval: Major Subdivision for Cerullo – Owens Road (aka Goshen Meadow)” Mr. Barone called it “the most detailed preliminary approval” he has seen for a residential subdivision of this size. He suggested the following changes to the specific conditions:

#3 – Language change with the reference to “ongoing maintenance” deleted and language changed to “including a restrictive covenant”.

#4 - Language change from “and as many design guidelines as possible” to “as many design guidelines as are applicable”. Mr. Hoffman said he is not opposed to the language change.

#15 – Add language regarding on site water testing so that it reads “the applicant shall demonstrate in accordance with applicable town code requirements.” Mr. Fink said he is not opposed to the language change and said that the remainder of that condition will stay the same.

#16 - Mr. Hoffman asked for a change in the date of memo from April 10, 2009 to June 29, 2009.

#19 - Mr. Barone said it references town protocols, and that the language should be made clear and consistent if what the PB is talking about is the town code and nothing other than that.

#23 - States that, “Any crossing of wetlands or streams approved by the PB and other regulatory agencies must be designed in such a fashion so that the replacements or repairs can be performed with as little further disturbance as is practicable.” Mr. Cerullo said he is concerned with the language “as is practicable” and wants something more definite.

Mr. Hoffman told the applicant that he should show the PB what he wants to do on the plans and have the PB comment on it and said, “it doesn’t get more definitive than that.” The PB wants the language to remain as is.

#28 – Add language “outside the buffer” to language stating that “such fencing shall be 5 feet outside the area to be protected.”

Mr. Fink said he would prefer that the PB and applicant have an opportunity to see the resolution in its final form before there is a vote on it. Mr. Barone said the applicant would like to get it approved tonight and Mr. Hoffman said that the PB has 62 days from the close of the public hearing, until August 5, to make a determination. It was suggested that there may not be another opportunity for a “super majority” vote (5 members) during the summer months. Mr. Fink said that given the other problems of time and people on vacation, the vote could take place tonight since the changes are not that substantial and are on the record. The PB discussed whether to vote on adoption tonight. Mr. Andrews was the only member who asked that it be held over until the resolution was in its final form.

Mr. Myruski asked Mr. Barone if he was satisfied with what the professionals have suggested in the conditions. Mr. Barone said that there are changes he would like made to the document, “but my sense is that they would not be accepted, like changing #23.” He said that while some of the language is “problematic, we will live with it because we have to.”

Mr. Fink said that the PB will incorporate into the resolution its reasons as to why it is not adopting the County Planning Department’s recommendation. Mr. Andrews said it is important to make sure that the final resolution is exactly what has been talked about tonight.

**VOTE BY PROPER MOTION**, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board accepts the Resolution of Conditional Preliminary Approval for the Major Subdivision for Cerullo - Owens Road (aka Goshen Meadows) with modifications discussed at this meeting. Approved unanimously.

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

**ADJOURNMENT:** A motion to adjourn the meeting at 8:55 p.m. was made, seconded and approved unanimously.

Raymond Myruski, Acting Chair  
Notes prepared by Susan Varden

