

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, New York 10924
January 3, 2008

MEMBERS PRESENT

Reynell Andrews
Lee Bergus
Susan Cleaver
Mary Israelski
John Lupinski

ALSO PRESENT

Neal Halloran, Building Inspector
Ed Garling, Planner
Sean Hoffman, Engineer
Richard Golden, Attorney
Kelly Naughton, Attorney

ABSENT:

Ralph Huddleston
Ray Myruski

CALL TO ORDER

Acting Chair Lee Bergus called the regular meeting of the Town of Goshen Planning Board to order at 7:30 p.m. at Town Hall in the absence of Chair Ralph Huddleston.

Persoon – 17-1-4 & 36, 127 +/- acres total acres located on Maple Avenue, Winners Circle and Breezeway Lane. 66.5 +/- acres in the RU zone with an AQ3 and scenic road corridor overlay. 60.4 +/- acres in the AI zone with a scenic road corridor & flood plain overlays. Extension of Final Approval granted 7/07.

Mr. Andrews said the project is currently before the County for curb cuts and that more than a 30-day extension may be needed. Ms. Naughton said the PB is allowed to give two 90-day extensions.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver to grant a 90-day extension of the final approval on the application of Persoon. Passed unanimously.

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

Todrabh – 24-1-63.2 – 7.09 +/- acres, agricultural warehouse in the AI zone, located on Pulaski Highway & Big Island Rd in the AI zone with an AQ3 overlay. Possible Site Plan approval.

Present for the applicant: James Dillin, Jr.

Mr. Golden said that SEQRA is complete and that the PB has been given a draft of the proposed resolution with the conditions. PB members reviewed the draft resolution and had no comments.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver the Town of Goshen Planning Board hereby grants site plan approval on the Application of Todrabh with the Resolution of Approval as written. Passed unanimously.

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

Tobias (a.k.a. Rolling Knoll) – 5-2-19.2 – 33.9666+ acres, located on Phillipsburg Rd in a RU zone with an AQ6 & stream corridor overlay. Possible Final approval – Lots 9 & 10)

Present for applicant: Dave Higgins, Lanc & Tully

Mr. Higgins said that the application is the final piece of what was called the Tobias Subdivision, an 18 lot subdivision approved in 2003. The second phase was Lots 7, 8, 11 & 12 approved in 2005. The applicant is now proposing to split off what was the old farmhouse property, Lots 9, 10 & 19. Mr. Higgins said soil tests were done for Lot 19 and new wells for Lots 10 and 19 were drilled. Lots 9 & 10 will now be one lot, he said. The wells were tested and the Health Department has reviewed them and signed off.

Mr. Hoffman said that everything is complete and Mr. Garling said there are no planning issues.

Mr. Golden said that two conditions of the PB’s prior approval in earlier phases may be carried forward (1) the planting of street trees at intervals, subject to PB approval as to type or an appropriate bond posted and (2) payment of \$2,000 per unit, in lieu of park land.

Ms. Cleaver asked if the Health Department had witnessed the perc tests. Mr. Higgins

said perc tests on Lot 19 & 10 were witnessed by the Health Department and a deep test done on Lot 19. He said that Lot 19 was completely absent of any trace of MTBE and Lot 10 was shown to have a trace amount of MTBE. The Health Department stipulated that a carbon activated filter be kept on the house.

Mr. Golden said that a negative declaration was declared in 2006 and that SEQRA is complete. He said his office will draft a resolution with the two conditions mentioned.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Andrews, the Town of Goshen Planning Board hereby grants subdivision approval for the two lot subdivision, Lots 10 & 19, known as Tobias (a.k.a. Rolling Knoll) subject to the resolution that will be provided with the two conditions outlined earlier. Passed unanimously. Ms. Israelski recused herself from voting.

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

Hambletonian – 8-1-12.221 – 23.4 +/- acres, 38 lot subdivision located on Magic Circle Terrace in the HR zone with an AQ6 overlay. Discussion and possible approval of FEIS.

Present for the applicant: Stuart Turner

Mr. Turner said he was present to ask for direction in completing the Final Environmental Impact Statement. He said the applicant wasn't sure how to respond to certain issues raised by the PB and its consultants such as the Bridle Path issue, the bulk requirements utilized in the proposal, materials proposed for the pathways and issues related to the design of the homes.

Mr. Garling said he sees several issues that need to be resolved before the FEIS is adopted, including:

1. The retaining walls and the need for technical design.
2. The use of Bridle Path for construction purposes. Mr. Garling said the PB has to determine if they want the road for construction and if they do, then the issue of who owns the road will be determined.
3. The conservation easements. He recommends an expansion of the conservation easement to include areas where the woods will be preserved. He said many of the lots go back five to ten feet and drop off, saying this is unnecessary.
4. The house styles and designs. Mr. Garling said the designs aren't shown and there are indications that some houses would be 5,000 sq. ft. which would be out of character with Hambletonian Park and the hamlet design features.
5. The foot path material and width should be discussed

6. The overall property layout. He said that almost all of the trees behind the houses would be eliminated in most areas. He said some screening should be left and some plantings should be proposed.

Mr. Turner said that the applicant is not pursuing Bridle Path as a road at all, saying it can be a construction entrance, but that they have no interest in pursuing it as a through road. The applicant will abide by whatever the PB wants to do, he added. Mr. Turner also said that the applicant has no intention of building 5,000 sq. ft. houses, that they recognize that it would be out of scale with the neighborhood.

Mr. Hoffman said his office has released two memos. Among the recommendations made are that the FEIS should address the water supply in more detail, especially in connection with the adjacent properties. He said the FEIS should also address a connection to the Village tank as an emergency back-up.

Mr. Turner said the applicant recognizes the issue of water and has proposed mitigation measures which are hoped to be adequate to conclude the SEQRA process. He said the applicant will continue to explore the existing wells and believes there will be adequate water once that is done. He said this will be a one-phase project.

Mr. Bergus asked about an evaluation of blasting with respect to the existing infrastructure. Mr. Turner said there was no actual analysis, that they will follow Town and State protocol in requesting permits. Mr. Hoffman added that the PB wants a handle on how much blasting will be required.

Ms. Cleaver said she believes Bridle Path should be opened up for construction. She wants to see the size of the homes and their architectural design identified in the FEIS, wants limits set as to how large the homes will be, and wants to see Flex-A-Pave used on the Arthur Place foot path.

Several PB members expressed concern about protecting the new sewer lines from blasting effects and construction traffic. Mr. Golden said that appropriate methods of protecting the sewer and water pipes can be addressed in the FEIS and said that any condition of approval will include necessary protections of blasting as determined by the Town Engineer.

Ms. Israelski said that the building envelope is important and that a smaller envelope will help out the drainage situation also. She wants to see an architectural profile and color in the FEIS. Ms. Israelski asked what public amenities will be provided. Mr. Turner said the applicant is not seeking incentives under the HR zone and thus doesn't think they are required to provide amenities. Following discussion, Mr. Turner said he will review it with the PB attorney.

Mr. Halloran said that 50% open space is required in the entire hamlet zone collectively, not individually, for each project. He said he doesn't think this project has satisfied that. Mr. Turner said that ultimately they want to satisfy the requirement by having an agreement with an adjoining property owner, Heritage Estates, but that it is not in place yet. Mr. Golden said that in order to get credit for the open space, the applicant will have to have it tried up by an easement with the other parties. He said the FEIS has to address the open space issue and how it is complied with.

Mr. Halloran recited several comments made at a Special Meeting of the Town's Environmental Review Board on January 2. He said the ERB:

1. Noted that the storm water ponds take up the buffer areas, especially next to Florican Lane and should be looked at.
2. Questions if Rabbit Run should be a through road.
3. Questions whether it is appropriate to have drains from the roof directed to the storm water system and not to any dry wells or rain gardens.
4. Recommends documentation from the Village indicating that the INI has been addressed as to the capacity of the sewer system.
5. Recommends documentation from the Village as to the quantity of water that would be available, questioning the Village's capacity to serve as an emergency water source.
6. Questions restriction of swimming pools.
7. Recommends that the size of homes be restricted so that they are compatible with the neighborhood.

Mr. Turner said the applicant has looked at Rabbit Run and concluded that it should not be a through road, but serve as a foot path.

Mr. Turner said that Bridle Path is not on the applicant's property and goes through wetlands. Mr. Hoffman said the DEC issues temporary permits for construction access. He said he hasn't seen anything as yet projecting what the wetland disturbance will be. Mr. Golden said that the applicant needs to address having that as a temporary construction access and what would be required, and what would be the alternative for construction traffic if the DEC would not issue a permit.

Ms. Israelski suggested using Bridle Path as a multi modal access pathway to the Heritage Trail. She said that if it is used as a construction access, that it should be considered for a foot path afterwards, stressing the importance of connecting the community for pedestrian access as much as possible. Mr. Garling suggested getting a reading from the DEC to see what their response might be.

Dan Matteo of Hambletonian Park said he appreciated the PB's concern about protecting water mains in Hambletonian Park but said the consensus of the community is that they are okay about construction trucks coming in on Yankee Lane but they want to leave

Bridle Path as it is. He asked that the PB acknowledge the community's wishes since the community bears the financial responsibility of the water pipes and sewer. Mr. Golden said it is still a Town District and the Town makes the decision as to what is appropriate for the protection of the existing infrastructure.

Mr. Garling said that in terms of the conservation easements, he will look at the plans and regulations again to see if there are additional conservation areas that can be taken out of the property without reducing the number of lots. Mr. Halloran said that storm water ponds are not permitted in conservation easements.

Mr. Turner asked for clarification on the issue of the bulk requirements, asking which bulk requirements are they to follow.

Ms. Israelski said she wants the building envelopes tightened and as many trees preserved as possible. Mr. Bergus said that most of the lots are deep, with little frontage. He said he'd like to see the natural topography followed as much as possible and the larger trees retained. He said he didn't want to see the building envelopes built right out to the edge of the property, just because it is allowed.

Contractor Andy Bell said he would take the envelope down and give the PB a footprint of the envelope. He said he has not yet done an individual lot assessment.

Ms. Cleaver said she wants to see the large trees (12" and larger) preserved and plotted on the plan. She also wants an inventory of the large trees in the clearing area. The applicant agreed.

Mr. Bell said that some of the larger trees are "toppers" and have to be taken down. Mr. Turner said that if the applicant expands the conservation area, none of the large trees will be touched. Mr. Golden said that it would have to be done prior to any preliminary approval, and can be put in the FEIS.

A & L Acres 13-1-34.2 – 217.8 acres, 49 lot subdivision located on Houston Road in the RU Zone with an AQ3 & 2 scenic road and 1 stream corridor overlay. Possible final approval.

Present for the applicant:

Steve Esposito

Mr. Esposito said this is an open area development on 17A and Houston Rd. and that the entire parcel is about 216 acres. The portion of the project before the PB, he said, is located on the west side of 17A and consists of a proposed 29 lots serviced by individual

wells and septic. He said the project has received preliminary approval and County Health Department approval and has changed little from the preliminary plans. He said he submitted the drainage easement, road dedications, driveway maintenance agreement between three lots and the final landscaping plan. He said that a constraints analysis indicates that the applicant would be entitled to a total of 72 lots but are proposing 49 with 29 on the west side (Phase 1) and 20 on the east side (Phase 2). He said the applicant worked with the PB to keep a large swatch of land along both sides of 17A, and to keep the water course and wetlands undisturbed. He said the PB is now looking at the final subdivision plan for the west side of the road. There is one access off Houston Rd. minimizing any development along 17A and Houston Rd. with an interior loop road, minimizing disturbance to hedge rows and using the landscape features. The project stays away from the water course and preserves the bowling green (alfalfa field) as best as possible. The field will be owned by the owner of Lot 19, Mr. Esposito said.

Some PB members voiced an interest in maintaining the bowling green area for its visual impact. There was a discussion about who would maintain it. Mr. Golden suggested that in the drainage district there could be a condition that the area be mowed by the Town with the cost charged to the District.

It was noted by Ms. Israelski that the applicant had agreed to add 5 ft to the width of Houston Road for any future pedestrian pathway.

Ms. Cleaver asked that all of the percs not witnessed by the Health Department, be witnessed by the Town Engineer. Mr. Esposito said that thirty percent of the percs were witnessed by the Health Department.

Mr. Esposito requested a waiver from the Environmental Control Formula. He said that all of the lots had perc and pits done on them, that all passed and so are not subject to the Environmental Control Formula.

Mr. Golden said the Code has specific criteria for the waiver, stating that there needs to be site specific information for the Town Engineer to advise the Board they can approve a waiver. Mr. Hoffman said the engineer recommends witnessed percs on all of the lots. He said that the Town has been doing that for some time. He said he did have confidence in the tests witnessed by the County Health Department but didn't know about the others.

Mr. Esposito opposed the recommendation saying that the PB is now telling the applicant they have to wait five months "before he can come back for final approval because you now decided you want to witness percs and pits. I realize you've been doing this for six months now but this plan has been before the PB for three years and never once has this been brought up. The applicant has already received Health Department approval, the time to have brought this up would have been while the applicant was doing the soils test

with the Health Department. If changes are made to this plan, the Health Department will have to review it again and the applicant will have to pay fees again.”

Mr. Esposito said there have been at least two perc tests and two test pits done per lot, and reviewed by the County Health Department and Stantec, and certified by the design engineer. Thirty percent of them were witnessed by the Health Department and certified by a highly respected local engineer, he said. He said that if the PB looks at representative samples done with the County, there are different soil types, different typography and different locations, and the engineer is certifying that these are the design rates they used to size the tile fields.

Mr. Bergus said that looking at the profiles, he’d say they are representative of what is out there. If there was water there, a rock ledge or a shale ledge, the engineer is showing it, he said. When the County inspects, they do a site walk, look at the ones that would potentially be the most problematic and selects them. They are not constrained by the number that is done. If there is variation, there will be more tests done, he said.

VOTE BY PROPER MOTION made by Mr. Andrews, seconded by Mr. Lupinski, the Town of Goshen Planning Board grants a waiver from the Environmental Control Formula, pursuant to Section 97-18 (d), on the application of A & L Acres. Motion approved 4 to 1.

Mr. Andrews	Aye	Ms. Israelski	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Nay		

Mr. Golden told the applicant that from the Town’s point of view, the Shared Driveway Maintenance Agreement needs to include a clause that one lot is ultimately responsible.

Mr. Esposito said that in regard to road grades and drainage, the applicant agrees with Mr. Lindsay who expressed concern about the 600 feet of 12% grade on Proposed Road B and being able to stabilize the grass swale. Mr. Esposito said the applicant is going to a more conventional catch basin and pipe situation and might use a combination of rip-wrap and pipe. Mr. Hoffman said that might be better. There was discussion about where it would discharge.

Mr. Esposito said that the wet pond area and the 1+ acres the applicant is dedicating to the Town along Houston Road has been deducted from the original open space calculation, which now stands at 50.44%. He said that the overall impervious surface is less than 10%, based on net acreage. He said maps have been created for each individual lot showing the impervious surfaces.

Mr. Halloran said that the entire development is a dead end street and the Town Code doesn't allow the PB to approve developments on a dead end street, unless it can make certain findings (Section 83-13) such as the topography doesn't allow any other connections.

Mr. Golden said that Mr. Halloran has made the interpretation that this configuration is a culdesac and the PB needs to have some sort of waiver (Section 83-32 - General Waiver Provision) stating that the provision of this culdesac can be waived if it is found not to be necessary in the interest of health, safety, or general welfare or because it is inappropriate to have the connections because of inadequacy or lack of connecting facilities adjacent or in proximity of the subdivision. If the PB makes this finding, then it can waive the provision on the culdesac limitation, and permit the culdesac.

Mr. Esposito said the property to the north of Phase 1 is developed land and that the plan is consistent with the comprehensive plan, and minimizes curb cuts on 17A and Houston Road.

VOTE BY PROPER MOTION made by Ms. Israelski, seconded by Mr. Lupinski, the Town of Goshen Planning Board grants a waiver from the culdesac requirement and allows the configuration to proceed as presented on the plans of A & L Acres. Passed unanimously.

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

Mr. Golden told the PB that the applicant has some rights with respect to the final approval. He said the law says that all of the important issues have to be addressed at the preliminary approval stage, except to the extent that there are modifications or conditions that have to be addressed before final approval. The law says that if the final is in substantial agreement with the preliminary, then the applicant has a right to a final approval, other than the conditions placed on it that still need to be addressed.

Mr. Golden said a Town moratorium is not in effect at this time, it has only been introduced and is still before the County, and then comes up for a public hearing on January 24th. If it passes, the moratorium will say everyone can go through the PB process but the PB can't give a final approval, he said.

Mr. Golden said there is uncertainty with respect to the 239 County Review, no comments from the County were found and no record found yet that a request was sent out. He said a vote could be taken on the final approval, subject to a determination that 239 has been complied with, and if it has not been, then the client will have to come back. He said there is the concern that the Town might act expeditiously on the

moratorium. Mr. Golden said that the better process is for the PB not to vote on approval tonight, “and if we find out tomorrow it wasn’t sent out, it will be sent tomorrow and we will request the County to expedite their review, since it was the Town’s fault. It should have been done by the Town after SEQRA was completed,” he said.

Lone Oak – 11-1-58 & 11-1-49.2 – 217.4 +/- acres, located on Harriman Drive and Arcadia Rd. in the HR zone with an AQ6 & stream and reservoir overlays. DEIS completeness.

Present for applicant:

Steve Esposito

Mr. Garling said he has done a substantial part of the review of the DEIS. He said his comments have been covered by other consultants and that he has nothing further except the water issue which is an engineering concern.

Mr. Hoffman said the engineer has three main issues: water, waste water and drainage.

With respect to the water issues, Mr. Hoffman said the DEIS should discuss the tie-in to the Arcadia water district. With respect to the waste water issue, the applicant is proposing a connection with the Village and if that is not going to happen, they would have to have a package plant. The DEIS should look at a Hamlet of Goshen connection, he said. With respect to drainage, calculations substantiating that the site is in close proximity to the outlet, the reason given for not providing extreme flood protection, needs to be shown. He said a separate traffic memo will be mailed.

Town Consultant Karen Schneller-McDonald of Hickory Creek Consulting, recited some of the highlights of her memo. She said she has questions about wetlands and wetland fill. She said a water management facility often has impacts on wetlands and thinks it is necessary to have the impacts reviewed as part of the draft FEIS. She said that the entire area of disturbance wasn’t really described in the FEIS. What will be the impact of the loss of the soils due to the impervious surface, she asked. She said the draft FEIS should contain a hydrogeologic description of the water shed and connection between ground water and surface water on the site and the subsequent impact on the system. She said the potential impact on ground water recharge and discharge has not been addressed. She asked about Arcadia Hill’s deficiencies in water supply and asked about the impact of this on the ground water. She said there are indirect impacts to the ball fields, skating ponds and trails that were not addressed. She said that the species information was not complete, the determinations in the field that were documented in the species report were not conducted during the right seasons to produce accurate results for many of the conservation concerns. She said the FEIS and species report do not address threatened and endangered plants, stating there are more than 80 species of threatened and endangered plants that may be found in the area and that the impacts from recreational facilities on the wetlands, water quality and habitat haven’t been addressed.

She also said that there is additional related information that should be provided including the impact of additional road salt. She said the whole aspect of biodiversity wasn't discussed in the FEIS at all, stating that the NYS Comprehensive Wildlife Strategy Plan and the Southern Wallkill Biodiversity Plan should be referenced.

Ms. Cleaver said she is concerned about the recharge and water quality as far as drinking water is concerned and said she questions if the well testing meets today's standards in the Town Code. Mr. Hoffman said he would check into it.

Ms. Israelski said she wants to see more detail on the visual aspect of the three alternatives to the water tank. She noted that the PB has gone on record saying they prefer the low profile water tank. She said that under "Purpose, Public Need and Benefits", the applicant is using national statistics and she would prefer to see local statistics used. She said she would like research done on interconnectivity to the proposed ball parks and skating area and the Town parkland and pedestrian interconnectivity from Arcadia Hills.

Ms. Cleaver told the applicant she is concerned about salt from Lone Oak going into Arcadia's wells because the property, she said, drains down into Arcadia's drinking wells and some of the wells have shown to have impacts during heavy rains.

Mr. Golden told the PB that they have indicated why they believe the DEIS is not complete and suggested it be made clear for the record.

VOTE BY PROPER MOTION made by Ms. Cleaver, seconded by Mr. Lupinski, the Town of Goshen Planning Board declares that the DEIS in the application of Lone Oak is not complete and requests the applicant to take the Town Planning Board consultants and member's comments and revise and resubmit the DEIS. Passed unanimously.

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

Heritage Estates – 8-1-9.22 – 249.76 +/- acres, 92 dwelling units located on Old Chester Rd & Brookside Dr in the HR & RU zone with an AQ6, AQ3, scenic road and stream & reservoir overlays. Act on scoping document.

Present for the applicant: Steve Esposito

PB members reviewed a draft final scoping document, dated January 3, 2008 for the Heritage Estates Development entitled "Supplemental Draft Environmental Impact Statement Regarding Construction of a Wastewater Treatment Plant for Proposed

Residential Subdivision”. The scoping document encompasses all of the Town consultant’s comments, Mr. Golden said. Mr. Halloran said that a notice was published in the newspaper and no comments were sent in from the public.

Mr. Golden said the scoping document was broadened in various areas and that one of the biggest changes was in the Executive Summary which touches upon all of the issues addressed later in the document.

He said that he has added, with respect to land use zoning and public policy for this new waste water treatment plant, “that it was also to discuss and compare the relative potential adverse impacts, the potential benefits of having a wastewater treatment plant of this size and scope maintained by private ownership versus the Town of Goshen, including the consequences and potential remedies if a privately operated waste water treatment plant fails to be properly maintained or upgraded as necessary, and the Town of Goshen, County of Orange, State of New York must intervene to address public health and safety concerns resulting therefrom.”

VOTE BY PROPER MOTION made by Mr. Lupinski, seconded by Ms. Israelski, the Town of Goshen Planning Board adopts the final scoping document of Heritage Estates and declares that it will be sent to the Town Building Inspector and the applicant by the Planning Board attorney. Passed unanimously.

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

OTHER BUSINESS: It was stated that the Town of Wallkill requests the PB to set a public hearing on their subdivision this month. Mr. Hoffman said there are two wells, one deep, one shallow and that the water quality got some false positives. The data is old, he said. But he also said that it can be a large source of potable water for the Town of Goshen. He said the submitted plan appears to satisfy the frontage requirement.

VOTE BY PROPER MOTION made by Mr. Andrews, seconded by Ms. Israelski, the Town of Goshen Planning Board sets the Public Hearing on the subdivision application of the Town of Wallkill for January 17, 2008. Passed unanimously.

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

ADJOURNMENT: Upon motion made by Ms. Cleaver, seconded by Mr. Lupinski, the Planning Board of the Town of Goshen adjourned at 11:25 p.m.

