

APPROVED MINUTES

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

February 5, 2009

Members Present:

Reynell Andrews
Lee Bergus
Susan Cleaver
Ralph Huddleston, Chair
Mary Israelski
John Lupinski

Also Present:

Neal Halloran, Building Inspector
Sean Hoffman, Engineer
Ed Garling, Planner
Rick Golden, Esq.
Kelly Naughton, Esq.
Bob Fink, Esq.

Absent: Raymond Myruski

CALL TO ORDER

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

MINUTES

The minutes of the Planning Board meeting of January 15, 2009 were approved by vote of the Planning Board.

Owens Road/Goshen Meadows – 10-1-10.22 – 126.40 +/- acres, 39 lot subdivision located on Owens Rd in the RU zone with an AQ6, AQ3, scenic road corridor and stream & reservoir overlay. To determine completeness of submitted material & possibly postpone public hearing.

Attorney Robert Fink was present to represent the PB on this application.

Mr. Halloran said that since the last meeting, the applicant brought in the requested submissions to the staff meeting, and that after review, the staff determined that they were incomplete. The applicant was then given until February 4th to get the updated materials submitted which they did.

Mr. Fink said that the deed was submitted and shows that there was a 2+ acre drainage perpetual easement excepted from the original conveyance. He said he would like to see exactly where that is. He said there is a difference in the metes and bounds that goes to the river, but that he thinks it can be explained.

Mr. Hoffman said that today he received a copy of a 1955 deed that describes a right Strong has over the lot to a 12 acre wooded lot. He said he hasn't had a chance to discuss it with the applicant. He also said that the plan now shows a right-of-way, not initially shown on the plan, that follows the trolley line and curves up toward the golf course property in the rear. He hasn't had a chance to discuss this with the applicant either.

Mr. Huddleston polled the PB members and it was decided to wait until the staff is satisfied with the information submitted before setting a public hearing date.

Mr. Garling said he will prepare a negative declaration for the PB's next meeting, saying that there will be some questions, but it would indicate that any concerns that would come about would reduce the number of lots and thereby have less impact on the environment. Mr. Garling said that as far as access is concerned, that "we would be talking about requiring a secondary access to the property which could be over that easement...and the indication would be that it would be allowed as secondary access provided they have title to the property and an HOA could be formed, or that if there are no impediments, it could be owned in some part by the Town."

Abandonment of Approvals

Mr. Golden told the PB that there are several applications wherein the applicant has received Preliminary Approval, and then let that approval lapse, without continuing the process by requesting extensions. Under the Town Code, the fact that an application has lapsed in its approval doesn't exactly end the process, he said. There is a provision in the Town Code whereby the PB has the right to say to an applicant whose approval has lapsed, that it considers the application to be abandoned.

Mr. Golden listed five applications that are eligible for the PB's declaration of abandonment. He said there is no requirement that the PB give the applicant notice of their intent to declare the application abandoned, rather it is the PB's discretion.

Mr. Golden notified the PB which applications fit within the category of having approvals that have lapsed and said that if the applicant has failed to get an extension, that it is appropriate for the PB to declare that they are deemed abandoned for PB purposes and if the applicant wants to start them up again, then they can start them up again. He advised the PB to take some action on these applications.

He said that in cases where the applicant received Final Approval from the PB and has gone past the 360 days since the approval was given, without continuing, then New York State Law states that the application has expired. For Preliminary Approvals, he said, there is no such finite deadline in the State Law. In those cases, Town Code states that the PB's initial preliminary approval is good for six months and after that the applicant is entitled to come back to ask the PB for an extension.

There was a lengthy discussion of whether to notify the applicants of this intent to declare the application abandoned, and how to do the notification. It will be the first time the PB has taken this action. Both Ms. Israelski and Mr. Huddleston spoke out for notifying the applicant and property owner of the PB's intent.

Mr. Golden suggested that the letter state that the application is going to be put on the PB's agenda on a specified date for purposes of determining whether or not the PB will issue an abandonment of the application pursuant to Town Code.

The five projects that have received approvals, but whose approvals have lapsed, since the period of time that Mr. Golden has represented the PB, were identified as:

Hendler application for a five lot subdivision received Preliminary Approval on December 6, 2007, which expired as of July, 2008.

Persoon application for a five lot subdivision received Final Approval July 9, 2007 and requested a 90-day extension in January of 2008 which expired April 3, 2008. More than 360 days have lapsed since their Final Approval and State Law requires that their application has expired.

Persoon application for a 21 lot subdivision, whose Preliminary Approval lapsed on September 23, 2006 after receiving Preliminary Approval March 23, 2006.

Traskus application for a 38 lot subdivision whose Preliminary Approval, granted in October of 2007, expired April 30, 2008.

Zulunsky application whose Preliminary Approval was granted on August. 17, 2006 and lapsed on February 17, 2007.

Mr. Golden suggested that in the future the PB could notify applicants that their approval is about to lapse, and inform them that if they want it extended, it must be approved by the PB and if the applicant doesn't respond to that letter, then the PB can consider the project abandoned.

Mr. Golden notified the PB that with respect to zoning changes, in general every application has to comply with current zoning, except those that have received final approval and if they receive final approval and the subdivision is filed, then the applicant has a three year statutory vesting period and that within that three years has to start the project.

Four of the six PB members stated that they would like the applicants notified of the PB's intent to begin proceedings of abandonment at its March 5, 2009 meeting.

It was decided that the letters should be sent certified to the owner of the property and also sent to the developer.

In the case of the Persoon application, whose Final Approval of a 5 lot subdivision lapsed in July of 2007, the PB took the following action:

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver, the Town of Goshen Planning Board hereby abandons the application of Persoon of a 5-lot subdivision that received Final Approval on July 9, 2007. Motion approved in a 5 to 1 vote.

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

ADJOURNMENT

The Town of Goshen Planning Board adjourned the meeting at 8:30 p.m.

Ralph Huddleston, Chair
Notes prepared by Susan Varden