

TOWN OF GOSHEN
TOWN BOARD WORK SESSION
July 6, 2015

MINUTES

A Work Session of the Town Board of the Town of Goshen was held on the 6th day of July, 2015 at Town Hall located at 41 Webster Avenue, Village of Goshen, County of Orange, State of New York.

Present:	Douglas Bloomfield	Supervisor
	Philip Canterino	Councilman
	George Lyons	Councilman
	Kenneth Newbold	Councilman
	Louis Cappella	Councilman

Also Present:	John Swift	Special Counsel to Town Board
	Valma Eisma	Town Clerk

Supervisor Bloomfield called the meeting to order, and led the Pledge of Allegiance.

1. KARSER ENTERPRISES, LLC PDR PROPERTY: Supervisor Bloomfield introduced the Attorney representing the proposed purchaser of the Rhode's property (Karser Enterprises, LLC), Anthony J. Monteleone, Esq. Attorney Monteleone presented the Board with a written presentation, and proceeded to review it with the Board. The presentation follows:

In the Matter of the
Town of Goshen Deed of Conservation Easement
Between
Karser Enterprises, LLC – Grantor and Owner
With
Town of Goshen and County of Orange – Grantees and
Holders of Easement Rights

Question: Is the consent of either the Town of Goshen or the County of Orange required to construct an indoor horse arena within the area designated as "The Farmstead Complex" in the subject Conservation Easement?

Answer: NO – Consent of the Town of Goshen and/or County of Orange is NOT REQUIRED as per Section 7.1B and 7.1F of the Conservation Easement.

Discussion: (a) Section 7.1.B states "Agricultural Structures and Improvements – Grantor has the right to maintain, repair and enlarge...and to construct, maintain and repair new agricultural buildings within the Farmstead Complex"

(b) Section 7.1.H allows recreational and educational uses.

The right of the Grantor, Karser, is absolute in the “Farmstead Complex” with no permission or consent required from the easement holders, the Town of Goshen or County of Orange as distinguished from Section 7.2.C which states in regard to the “Farm Area, “

“Agricultural Structures and Improvements –Grantor has the right to construct, maintain and repair new buildings...within the Farm Area ... with the advance written permission of the Grantees provided the Grantor has supplied sufficient information.”

This distinguishing language is not by accident or by omission. The New York State Department of Agriculture and Markets published a Guidance Document for Drafting Conservation Easements in accordance with Section 49 of the New York State Environmental Conservation Law which states in Section 8 – Construction of Buildings and Other Improvements under 8 (c).

“Agricultural Structure and Improvements – In the Farmstead Area, the Model Easement Allows landowner to construct new agricultural structures related to the Farm Operation and for other purposes related ...without permission of the easement holder.

whereas

Obviously, the subject Conservation Easement was drafted, reviewed by attorneys for all parties, including the Town of Goshen, and approved and signed by the Town of Goshen with the exact distinction, namely,

NEW agricultural structures can be built within the Farmstead Complex without permission of the Easement Holder.

Pursuant to New York State Agriculture an Markets Law (AML), Section 301 (11) and (13), the raising, breeding, boarding and sale of horses has consistently been viewed as a “farm operation”, including commercial horse boarding operations and as such receive AMI,305-a protection from unreasonable local laws. Structures included as being essential to farm operations are structures used exclusively as indoor arenas used in connection with a horse boarding operation.

It is pointed out that Section 8.1 of the subject Deed of Conservation Easement entitled “Use and Building Prohibition” has no application in this matter since it is specifically stated therein, that the restrictions imposed in said section are limited and do not apply where the Structure is expressly permitted by this Conservation Easement.

That is exactly the case herein. The Town of Goshen’s consent is not required to build within the “Farmstead Complex”. Karser Enterprises, LLC, its successors and/or assigns have the right to conduct a horse farm and boarding operation as defined under Section 201 of the New York State Agricultural and Market Law.

The mission of my client in owning and operating this horse farm operation is to create and establish a welcoming, supportive, multi-disciplinary boarding, educational and recreational equine facility capable of operating on an all year round basis in all types of weather conditions, which is why the indoor arena is a

necessary part of the horse farm operation. The Agricultural District created under Article 25AA and 25AAA of the New York State Agricultural and Market Law and adopted by the County of Orange, and the Town of Goshen encourage, protect and give the farm operator the right to construct an indoor arena subject only to the issuance of a building permit by the Town Building Inspector.

Attorney Monteleone said he is asking for a verbal statement from the Board saying the Town's permission is not needed to build within the Farmstead Complex, and that the Building Inspector has a right to entertain an application.

Scot Bonacic, of Bonacic & McMahan, asked if he could speak, as he represents Steven and Karen Rhodes, who are Karser Enterprises LLC. He said he believes this is an interpretation issue. He says he understands there was an easement conveyed in 2006, sharing the cost with the County, to Karser Enterprises. He said the easement on this property is very detailed as to what can or cannot be done to the property. He explained that there are two parts of the property, the Farmstead and the Farm itself. Karser Enterprises LLC have contracted to sell part of the property to Circle Z, which is why we are here this evening. He said as owners of the property, they were given approval years ago from David Church, of Orange County Planning, that they were not opposed to a similar riding arena under the terms of the Conservation Easement.

He continued to explain that his clients did due diligence during the period allowed. Attorney Bonacic referred to Section 8.1 Restricted Uses: No residential, commercial, industrial or mining activities shall be permitted, and no building, structures, appurtenant facility or improvement shall be constructed, created, installed, erected or moved onto the property, except when expressly permitted by this Conservation Easement. Attorney Bonacic said this is the most important thing written in this contract.

He stated there is a distinct difference in what can be done in the Farmstead Area versus the Farm Area. He said this is what everyone wants to talk about tonight.

He produced a map to show the Board where the Indoor arena would be built, indicating it within the Farmstead Area. Beth Ann Bodeur joined Attorney Bonacic to point out the location of the arena, etc.

Attorney Bonacic explained that there are different uses allowed in the Farm Area that need the permission from the Town of Goshen and the County of Orange. However, these were left out of the Farmstead Complex uses. There are certain things allowed in the Farmstead Area if it is considered an Agricultural use, and Ag and Market has determined this arena as an Agricultural use. Thus, he stated that it is of their opinion that his clients should only come to the Town's Building and Zoning Office, and apply for a Building Permit for the structure. He stated that there should be no further approvals needed from the County or Town.

There was an extensive discussion between the Board, the Land Owners, Attorneys and members representing Circle Z, LLC. Supervisor Bloomfeild stated the Board has a contract with the Rhode's family, "we spent one point two million dollars to purchase this property for open space." He said the Rhode's did not talk to anyone on the Board about their intent to build an arena, but went straight to the Building Inspector. The Board asked to know exactly what other uses were intended for the arena. Explanations and apologies to the Board were extended, and all said that they thought they were going to the right person when they went to the Building Inspector..

Councilman Canterino asked what plans Circle Z LLC had for the arena. Beth Ann Brodeur explained that Circle Z LLC will be the owner of the property, She stated they have formed a separate company that will be called Will's Way. "Will's Way's purpose is to operate a small commercial horse boarding operation." It will be involved with schooling events sponsored by groups such as 4-H and Orange County Dressage, and will be offering therapeutic riding to the handicapped, as well as the able bodied.

Steve Rhodes asked Supervisor Bloomfield if he remembered, when the original PDR process was underway, that he and his wife planned on building an arena, and no one objected. Supervisor Bloomfield agreed, but he thought it was strictly for the Rhodes' use. Karen Rhodes said they were not aware that it was necessary to inform the Board that they were selling their property, it was not meant to slight the Board. Supervisor Bloomfield said the Board would like something in writing, so they could digest and negotiate it.

Supervisor Bloomfield said he felt this whole thing "got off on the wrong foot". He stated the Board has to be part of the plans for the PDR properties to protect the taxpayers who paid for the original PDR purchase. He asked that the proposal be put in writing explaining all the plans the petitioners have for the property, and send it to the Board. He was assured by all that they will send a mission statement, and would like the Boards approval to allow them to apply for a Building Permit.

Councilman Cappella explained to the group that when the parcel was proposed to the public back in 2006, there were rallies, and signs that said buy open space. He said the people have an investment in this open space, and the Board needs to protect that investment.

Supervisor Bloomfield again stated he would like to receive "a written statement telling us what is your intent, how it is going to manifest itself in the future." Attorney Monteleone said he would be glad to send a Mission Statement to the Supervisor, but he would like to have something in writing from the Board stating that consent is not required to build an arena on Farmstead. Attorney Monteleone asked when he could have a final answer? Supervisor Bloomfield replied the Board would review the Mission Statement, and place it on Thursday's agenda.

2. DISCUSS AND PASS MOTION TO AUTHORIZE THE BUDGET OFFICER TO EFFECTUATE 2014 YEAR-END BUDGET TRANSFER: Supervisor Bloomfield explained that this is just a budgetary thing that needs to be done each year. Councilman Canterino made a Motion to approve the 2014 year end Budget Transfers in all funds. Councilman Cappella seconded the Motion. Motion carried unanimously.

3. JRC CAPITAL PROJECT PLANNING STATUS UPDATE: Supervisor Bloomfield stated he had talked with Councilman Lyons about the Capital Project Planning. Councilman Lyons said he has been working with Broderick and Trish Sherlock, and they have the potential for two projects. One is the irrigation project that Jason had sent to him last evening. He said he spoke to him on the weekend, and he said he is meeting with his venders this week, and may have some more information then.

Councilman Lyons said he talked with Kyle Roddy and Chris Gurda, about the \$20,000. Kyle and Chris said they had not talked to the entire Board, but they are in on both of the projects. He also reported he met with Broderick about the black topping at Urbanski Park. He said with all the work that has been done thus far, the budget is \$68,032 Dollars, well within the budget.

4. MIDWAY BRIDGE DETOUR PLANNING STATUS UPDATE: Councilman Canterino reported he received a letter today from Dennis Lindsay, Town Engineer, and the Board may be entering into a contract with the Town of Walkill soon.

5. INFORMATION: “NON ADJUSTED” ASSESSABLE BASE, FOR TOWN OF GOSHEN INCREASED 3.3% DURING THE PAST YEAR FOR 2016: Supervisor Bloomfield reported the Assessing Office prepares and reports the Assessable Base of the Town. He said the Assessable Base for 2015 was \$592,267,391, for 2016, \$611,855,986, an increase of 3.3% .

ADJOURNMENT: Councilman Lyons made the Motion to adjourn the meeting, go into Executive Session, with intent not to return, to discuss the following:

- 1. Karser Enterprises, LLC PDR Property**
- 2. Turi Landfill Tax Certiorari Status Update**
- 3. PBA Mediation Status Update**
- 4. PBA Personnel Case Update.**

The Motion was seconded by Councilman Newbold. Motion carried unanimously.

Time: 8: 55 p.m.

Valma Eisma, Town Clerk