

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
May 24, 2021

PRESENT: Chairman Harvey            Mrs. Rasmussen  
          Mr. Dailey                    Mrs. Harris  
          Mr. Kestler                   Mr. Farmer  
          Mr. Hoover                   Mr. Perry-Alternate

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Dailey made a motion to approve the April 26, 2021, and May 3, 2021, minutes as submitted. Mrs. Rasmussen seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #13-2021, Colf Brothers Construction for Ryan Millerd & Mckenzie Colf, owners of property on Kearney Road, requests site plan approval to build a single family home. Public Hearing time: 7:30PM to 7:45PM.

The public hearing was re-opened and the notice as it appeared in the official newspaper of the town was read.

Jerry Colf, Ryan Millerd, Rich Millerd, and McKenzie Colf were present and presented their application to the board.

Chairman Harvey stated that they are missing topography next to

the road on the driveway. The topography will need to show that the driveway is outside the wetland buffer.

Contours and grading was continued to be discussed with the applicant. The grading will need to be corrected on the plan so that the stormwater drains away from the home.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was closed.

A letter dated April 2, 2021, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the

proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Kestler seconded the motion, which carried unanimously.

Mrs. Rasmussen made a motion to approve the site plan with the following conditions: 1. All the grading and site work is outside the 100 foot limit of the DEC wetland. 2. Show that there is positive drainage away from the house foundation. Mr. Hoover seconded the motion, which carried unanimously.

Application #14-2021, David A. & E. Candice Eldredge, owner of property on West Swamp Road, requests site plan approval to build a single family home. Public Hearing time: 7:50PM to 8:05PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

David & Candice Eldredge were present and presented their application to the board.

Mrs. Eldredge stated that they would like to build a new home on the property for their daughter.

Chairman Harvey stated that there needs to be some proposed grading added to the site plan showing positive drainage around the house and the leach field. Show grading along the driveway. Show stormwater calculations and infrastructure to reduce groundwater. Show the silt fence on the site plan.

Mr. Farmer stated that he would like to see the electric underground.

Mrs. Eldredge stated that they do intend to have the electric underground.

Chairman Harvey asked if there were any more comments from the public. Hearing none, the public hearing was closed.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mr. Dailey made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Hoover seconded the motion, which carried unanimously.

Mrs. Rasmussen made a motion to approve the site plan with the following conditions: 1. The upland diversion channel shown on the plan needs to be in place and stabilized prior to

construction. 2. Show on the site plan where the silt fence will be installed. 3. Amend the grading to provide positive drainage on the west side of the house. 4. Show proposed grading to show that the stormwater is being diverted around the leach bed field. 5. Show the proposed grading along the driveway. 6. The engineer needs to show and stamp the stormwater calculations. 7. Site survey after construction is to show underground electric. Mr. Hoover seconded the motion, which carried unanimously.

Application #15-2021, Richard J. DiMarco & Alberta DiMarco, owners of property at 3900 State Rt. 364, requests site plan approval to build a 28' x 30' garage. Public Hearing time: 8:10PM to 8:25PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

On Thursday March 18, 2021, the Zoning Board of Appeals made the following motion: a motion was made to grant a lot coverage variance of 6.6% for a lot coverage of 31.6%. A variance of 20.78' for a setback of 9.22' from Old East Lake Road as shown on the plan.

Richard DiMarco and Rocco Venezia were present and presented the application to the board.

Mr. Venezia stated that the garage will be built on the part of the parcel that is on the east side of Old East Lake Road. The driveway will be a reinforced grass driveway. There is a temporary topsoil stockpile shown on the site plan, which will be removed and graded around the building. They are proposing a stormwater infiltration bed on the site.

Chairman Harvey stated that there are a couple of contours that need to be corrected to move the water away from the building.

Mr. Dailey asked if variances were needed at the time the house was built.

The house was built in 1989. There is nothing in the file showing that variances were needed or granted. Zoning regulations have changed quite a bit since 1989.

Mrs. Harris asked if there was going to be lighting on the garage.

Mr. DiMarco stated that there will be lighting on the front of the garage.

Chairman Harvey stated that the exterior lighting will need to be dark sky compliant.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was closed.

A letter dated November 10, 2020, was received from New York Office of Parks, Recreation and Historic Preservation on

this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mr. Hoover made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mrs. Rasmussen seconded the motion, which carried unanimously.

Mr. Farmer made a motion to approve the site plan with the following conditions: 1. Modify the grading for positive drainage around the foundation. 2. Lighting fixtures are to be dark sky compliant. Mr. Kestler second the motion, which carried unanimously.

Application #16-2021, Martha Yudicky, owner of property at 4117 County Road 18, requests site plan approval to build a single family home, attached garage and detached garage. Public Hearing time: 8:30PM to 8:45PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

Peter Sarkis, Marks Engineering, was presented and presented the application to the board.

Mr. Sarkis stated that what they are proposing is building a three bedroom house with a raised bed septic system.

Chairman Harvey asked what the intention was with the variance that was previous granted for 3 horses.

Mr. Sarkis stated that he believes that the owner would like to have some horses there.

Chairman Harvey questioned the septic system in the pasture area.

Mr. Sarkis stated that the septic system could go elsewhere on the property, but it would be more costly. The owner has decided to keep it where it is proposed and will have to redesign the pasture area.

Chairman Harvey stated that the pasture area will need to be shown on the plan.

Mr. Farmer questioned if the manure storage behind the barn was going to remain.

Chairman Harvey stated that the owner will need to locate and area on the site plan for the manure storage. The manure storage area will need to be covered with something other than a blue tarp.

Chairman Harvey asked if there was stormwater calculations on the site plan.

Mr. Sarkis stated that they have not provided calculations, but they have provided infiltration from the roof leaders down to the swales.

Chairman Harvey stated they need to do a calculation showing the additional impervious surface and how they are handling the stormwater showing that it will roughly absorb at the same rate for what has been disturbed.

Chairman Harvey stated the drainage around the house looks wonderful.

There is not a determination from New York Office of Parks, Recreation and Historic Preservation. It could not be determined when the application was sent to SHPO.

Mrs. Harris asked if the electric was going to be underground.

Mr. Sarkis stated that they are planning on it being underground.

Chairman Harvey asked if there were any comments from the public. Hearing none, the public hearing was adjourned to be re-opened on June 28, 2021, at 7:30PM.

Application #17-2021, Jason Baldwin (T&J Armory, LLC) owner of property at 2665 State Rt. 245, requests a special use permit and site plan to operate an online firearms and manufacturing business. Public Hearing time: 8:50PM to 9:05PM.

The public hearing was opened and the notice as it appeared in the official newspaper of the town was read.

Jason Baldwin and Tyler Gray were present and presented their application to the board.

Mr. Gray stated that the business will be an online firearm store. They will set a website where they will advertise their firearms.

Chairman Harvey asked about the manufacturing.

Mr. Baldwin stated that the manufacturing is more assembly of gun parts. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) doesn't classify it as assembly they call it manufacturing.

Chairman Harvey read all the criteria for a Home Business Class A.

Mr. Baldwin stated that the business would be conducted inside the existing home.

Chairman Harvey stated that they can have a sign. There cannot be any outdoor display of goods.

Mr. Baldwin stated that are going to be New York State compliant and Federal compliant. Everything they do is compliant with the ATF [Alcohol, Firearms, & Tobacco Agency rules & requirements]. In response to a board question as to the sales of 'ghost' firearms (untraceable firearms such as single use plastic guns without serial numbers), they responded that they are not allowed to sell anything without a serial number.

Chairman Harvey stated that if they plan on putting up a sign they will need to put that location on the site plan plotted on a current survey of property.

Mr. Baldwin stated that he was thinking of putting a sign underneath his mailbox.

Chairman Harvey stated that would be fine just put it on the site plan.

Mrs. Rasmussen asked where is the store and storage of items going to be.

Mr. Baldwin stated that it will all be in his house. It will be in a separate room that is locked.

Mrs. Rasmussen asked how much inventory they plan on having.

Mr. Gray stated they are going to start small.

Mr. Baldwin stated that they don't have a lot of funds so they are going to start small and as they grow they may have to do something different.

Mr. Dailey asked what kind of security they will have.

Mr. Gray stated that they will have a gun safe, and the room is going to be locked. He has three dogs. If he has to get security he will get security that is something that he can look into. The ATF just states that the firearms have to be locked up.

Mr. Farmer asked if they have to test the firearms.

Mr. Gray stated that if they do have to test them there will be no firing at this property. They have 80 acres out in the middle of no-where that they can test them.

Mr. Kestler asked if there was a window in the room where the firearms are going to be kept.

Mr. Baldwin stated that there is one window in the room. There are not bars on the window, but he believes that this is going to be mandatory through the ATF.

Mr. Dailey asked about the registration process through the ATF.

Mr. Baldwin stated that ATF does a background check and an in person interview of about 4 hours at the place of the business. They also fingerprint them.

Mrs. Rasmussen asked who all live in this home.

Mr. Baldwin stated that his wife, two children and himself live in the home.

Mr. Dailey asked if anyone associated with the business have criminal backgrounds.

Mr. Baldwin stated no. It is just him and Tyler Gray and they both have had background checks, and both have pistol permits, which required them to have background checks.

Mrs. Rasmussen asked if the gun safe that they will keep the firearms for sale is separate from the gun safe they keep their personal guns in.

Mr. Baldwin stated that they will be kept separate.

Chairman Harvey asked if their intention was to keep everything locked in a gun safe.

Mr. Baldwin stated yes all firearms will be in the safe.

Mr. Perry asked if they intended on hiring anyone.

Mr. Baldwin stated that it will just be him and Tyler.

Mrs. Rasmussen asked where will their shipping be done. Out of the house or will you take it off site to ship?

Mr. Gray stated that is something that they had to clarify with the Federal Firearm License (FFL). They can ship it to the house as long as one of them is there to sign for it. They are going to ask if Mr. Baldwin can accept the packages at his work.

Mr. Baldwin stated that they will ship out of a FedEx store.

Mr. Dailey asked how they assure that the person buying the product is qualified when shipping purchases.

Mr. Baldwin stated that they can only ship to another FFL [Federal Firearm Licensee]. Once the FFL receives the firearm they do the background check on the buyer.

Mr. Dailey asked what authority do they have to answer to to assure that they are doing their job correctly.

Mr. Baldwin stated they have to answer to the ATF. The ATF will do surprise visits and checks all of their paperwork to assure they are doing the job correctly.

Mr. Kestler asked if they are just selling firearms or are they selling ammunition too.

Mr. Baldwin stated that they are selling ammunition too.

Mr. Baldwin explained that there is a paper trail on all firearms and the ATF is always checking the paperwork.

Chairman Harvey asked if they could give the board an idea of how much inventory they may have.

Mr. Gray stated that if the business really takes off and they outgrow the one room they will find a store front to run their business.

Chairman Harvey asked if they knew what that limit was.

Mr. Baldwin stated that if they get where they are selling two or three guns a day they will have to think about moving their business.

Mr. Dailey asked if they would be comfortable if the board limited it to just two people doing the business at this location.

Mr. Baldwin and Mr. Gray stated that they do not intend to hire anyone it is just a hobby for the both of them.

Mrs. Rasmussen suggested that they may want a metal door on the room that the firearms and ammunition will be in.

Mr. Gray stated the firearms and ammunition will all be locked in the gun safe.

There was discussion between the applicants and board on setting a limit on the amount firearms and ammunition at this location.

Mr. Baldwin stated that they have no inventory at this time because they don't have their FFL license. Once they get their Federal Firearm License they will start ordering. They are going to have a website page.

Mr. Kestler asked if 50 firearms would be a good number to start with.

Mr. Baldwin stated that he thought they could work with 50.

Chairman Harvey stated that if they find that 50 isn't enough they can always come back to the board to discuss raising the number.

Chairman Harvey asked if people would come and pick up and park in their driveway, so other than the business sign there would be no changes to the site?

Mr. Baldwin stated that they would park in his existing driveway there would be no changes to the site.

Signage was discussed. Chairman Harvey stated they could have a sign that follows the requirements for a sign, 4 square feet on a side with no lighting.

Hours that they would be open for customers were discussed.

It was decided that there would be no site pickups after 9:00PM. If they decide to have Sunday pickups they won't open until noon and will close and 5:00PM. Monday through Saturday 9:00AM to 9:00PM.

Chairman Harvey asked if there were any comments from the public.

Bill Glitch stated that he is enjoying sitting on this side of the table. He has no concerns with what they are trying to do. He was just interested in what they had to say and what the board was going to ask.

Chairman Harvey asked if there were any more comments. Hearing none the public hearing was closed.



The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Dailey seconded the motion, which carried unanimously.

Mr. Hoover made a motion to approve the special use permit and site plan with the following conditions. 1. A final site plan document be filed with the Code Enforcement Officer indicating a. location of room in the home where the business will be conducted, including where the firearms and ammunition to be offered for sale will be stored, b. noting metal bars are to be installed on the exterior windows in said room, and c. noting the location of the business sign to be hung from the mailbox consisting of the business name in black letters on a white background with no lighting. 2. Ammunition and guns for sale are to be locked in a gun safe except when being worked on, in receipt from shipping, in preparation for shipping, or being inspected during customer pickup. When and if they have too many guns and ammo to fit in the gun safe a locking metal door is put on the room where the firearms and ammunition offered for sale are to be stored. 3. No more than 50 firearms and 30 thousand rounds of ammunition offered for sale are allowed on site at any one time. 4. Mr. Baldwin and Mr. Gray and anyone living in the house are to be the only employees involved with the business, no additional employees living off the premises are allowed. 5. All outgoing shipping will be off site. In other words, there will be no shipping of sold items from the premises. 6. No firing of firearms is allowed on the premise. 7. The special use permit shall be valid only as long as one of the owners of the business lives at the premises. 8. The special use permit shall have an initial term of two years, with renewal subject to review by the Planning Board. Renewal will be contingent upon the applicant's compliance with the conditions of the special use permit and any operational issues or complaints received from the public, including neighboring property owners. 9. The Applicant may apply to the Planning Board for modification of the number of firearms or rounds of ammunition for sale at the premises at any time. Mr. Farmer seconded the motion, which carried unanimously.

## MISCELLANEOUS:

A letter was received from Avery Beer asking the Planning Board to lift any contingency with the curb cut that was put in place at the November 23, 2020, Planning Board meeting during his site plan approval for a residential addition.

After looking at the survey map that is in file the Planning Board's decision stands at what was approved at the November 23, 2020, meeting.

Chairman Harvey stated that the neighbors should work on a cross access easement because according to the survey the driveway entrance is more on Mr. Beer's property than Mrs. Clark's property.

Mr. Hoover made a motion to adjourn the meeting at 9:39PM. Mrs. Rasmussen seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary