

MINUTES
TOWN OF GORHAM PLANNING BOARD
October 23, 2023

PRESENT: Chairman Harvey Mr. Farmer
 Mrs. Harris Mr. Kestler
 Mr. Perry Mrs. Rasmussen

EXCUSED: Mr. Hoover

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Farmer made a motion to approve the September 11, 2023, and September 25, 2023, minutes as presented. Mrs. Harris seconded the motion which carried unanimously.

PUBLIC HEARING:

Application #17-2023, Chris Farmer, owner of property at 4115 County Road 18, requests site plan approval to build a 40 x 40 garage.

Bob Farmer recused himself from the board and took a seat with the public.

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

Chris Farmer was present and presented his application to the board.

Mr. Farmer stated that he would like to construct a 40 x 40 red iron garage. It will eventually be attached to the house. Because of construction costs they are holding off on connecting it to the house.

Jim Morse, Code Enforcement Officer stated that no variances are needed for this project.

Chairman Harvey stated that there is plenty of compacity with the rain garden that has been proposed and designed to offset the additional lot coverage.

Mrs. Rasmussen asked if there was any outdoor lighting proposed on the garage.

Mr. Farmer stated that currently no. They want to leave the dark sky. If for some reason they discover issues and need some lighting they may put lighting in but at this time no.

Chairman Harvey stated that the board will put a restriction that all lighting must be dark sky compliant.

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

A letter dated September 26, 2023, 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 and 3 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 condition: 1. Add a note on the plan that any lighting will be dark sky compliant. Mr. Kestler seconded the motion which carried unanimously.

Bob Farmer rejoined the board at this time.

MISCELLANEOUS:

Application #13-2023, Paul A Caloyeras, owner of property at 4883 County Road 11, requests site plan approval to build a single family home.

Anthony Venezia, Surveyor and Adam Lyons, Attorney was present and Mr. & Mrs. Caloyeras were present on zoom. They presented the application to the board.

Mr. Lyons stated that his client bought this property that has a homeowners association. The homeowners association covers the roadway and an area down at the lake. Everyone is expected to pay dues that is in the homeowners association. In the homeowners by laws there is a page 8 that talks about approvals. What he doesn't see in the by laws is anything that says they can treat property owners on one side of the road different than property owners on the other side of the road. It states that the board because the road is a common area has a right to look at the plans and approve it to make sure the common area isn't destroyed. His client did submit this to the board and no one responded until tonight. The Caloyeras's engineer would be happy to talk to the HOA board members to make sure that roadway is maintained. He has looked these by laws over and over and cannot find anything that states that you can treat somebody that is paying the same dues different than people that are getting all

the benefits. According to his client there are some homes on this side of the road that access Arrowhead Drive. He is unsure if the Planning Board can get into the middle of this.

Chairman Harvey stated that is a good point. He has read the material that were provided in the email and looked at the deeds and he did not see anything that would prohibit access on Arrowhead Drive. It is clearly a property owner and homeowner association issue and they have to work it out. The Town is not going to get into the middle of it. This board is charged with following the laws of the town and looking at where access makes the most sense. If the board decides that Arrowhead Drive is the best place for access and approves the design as such it will allow them to get a building permit from Jim Morse for construction but it doesn't protect them from any action from the association.

Paul Caloyeras stated that he submitted his site plan to the HOA on September 19 or 20, 2023. He talked to them a few times asking them to schedule a zoom call so that they could discuss their plans. That has never happened. The HOA presented them with their issues at the September planning board meeting. Mike Kennedy the HOA president has taken this on personally. There are two other homes in the HOA that have a County Road 11 address who's driveways are on Arrowhead Drive. One is an older home and one is a new home. With the stormwater mitigation they have spent so much time and money to meet the town's codes. The guardrail that is in front of their property on County Road 11 is County property. The first thing that they did was talk to the County engineer. The County engineer told him good luck that they would never get the guardrail removed. The lot would be unbuildable if there is no access. He did talk to two of his neighbors and one who is the treasure of the board she had no issues with their project and didn't even know that there was an issue with the project. The other was a neighbor on Arrowhead Drive called him and wanted to know about the project they discussed it and she had no problem.

Chairman Harvey asked if there was anyone else that would like to make a comment.

Mike Kennedy stated that he is not taking this personally. There are a number of facts that need to be corrected. They received the plans three days before the Planning Board was to meet. He did not realize it was for the HOA approval he thought it was just to let the HOA know what they were doing. The HOA was scrambling to put together their part of the story so they could come to the Planning Board and address these issues. The day after they addressed those issues the communication they got after the Planning Board encouraged them to work it out with the parties is a letter from the attorney ordering us to withdraw

our objections. This is not how you work it out. Just 5 days before the Planning Board was to meet they received the documents by email. They were difficult to read. They were provided with full scale drawings when they came to the Planning Board meeting. They now have a better understanding and it is clear to them that as the Planning Board pointed out this is private property this could potentially be a serious modification to private land. They understand that this is a difficult situation. It is difficult on both sides.

Chairman Harvey stated the Planning Board needs to look at what was submitted and either approve it with or without modifications and then letting the applicant and the HOA work this out. If something is worked out that changes what was submitted to the Planning Board the applicant will need to come back to the Planning Board for approval.

Mr. Kennedy questioned if the board looks at how they are connecting the driveway to the HOA private property.

Mr. Venezia stated that they do have to make the connection of the driveway to Arrowhead Drive.

Chairman Harvey stated the Planning Board is going to move forward and do the environmental review and discuss approving the site plan. Arrowhead Drive seems to be the logical place for egress. Mr. Kennedy is correct that modification for the driveway requires the Homeowners Associations approval.

Richard Hall stated that he lives at 4811 County Road 11 and wants to correct something that was said. They are next door to this property and have frontage on Arrowhead Drive which is a town road and is maintained by the town. That is why his driveway is onto Arrowhead Drive.

This was continued to be discussed by the applicant, board and public.

James Morse, Code Enforcement Officer stated that he has not seen a comment letter from Venezia on MRB Groups site plan comments. Also the maximum driveway grade needs to be no more than 12% not 16% as shown on the plan.

A letter dated September 29, 2023, 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. Kestler made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 and 3 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. Harris seconded the motion, which carried unanimously.

Chairman Harvey made a motion to approve the Site Plan with the following conditions: 1. Modify the grading plan to provide a maximum 12% slope on the grade of the driveway. 2. Address and make corrections to all MRB Group comments. 3. Any modifications to the privately owned access road beyond what is presented on these plans will have to come back to the Planning Board for approval. Mrs. Rasmussen seconded the motion which carried unanimously.

Chairman Harvey stated that this approval from the town does not protect them from legal action or discussion with coming into agreement with the Homeowners Association. That is a private matter between property owners.

Mr. Kestler made a motion to adjourn the meeting at 8:21PM. Mrs. Rasmussen seconded the motion which carried unanimously.

Thomas P. Harvey, Chairman

Sue Yarger, Secretary