

MINUTES
TOWN OF GORHAM PLANNING BOARD
June 27, 2016

PRESENT: Chairman Harvey Mrs. Rasmussen
 Mr. Dailey Mr. Henry
 Mr. Atkins Mr. Farmer

EXCUSED: Mr. Hoover

ABSENT: Mr. Westermann-Alternate

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Dailey made a motion to approve the June 6, 2016, minutes as presented. Mrs. Rasmussen seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #07-2016, David & Cheryl Waldman, owners of property at 4572 Lake Drive, request a site plan approval to build a single family home.

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

Rocco Venezia, Surveyor, was present and presented the application to the board.

Chairman Harvey stated that the public hearing was adjourned to give the applicant and the Town of Gorham some time to discuss a potential utility easement to allay some of the issues on Lake Drive. Chairman Harvey introduced and invited Fred Lightfoote, Town Supervisor, to the table to discuss what the Town is proposing.

Mr. Lightfoote stated that they have come up with a couple of different options that will address the drainage situation. Rocco Venezia and the engineers at Clark Paterson Lee have worked together and have come up with two different options. The two options are not fully engineered yet. One option would be a costly remedy that would involve a lot of piping. The pipes would cross Waldman's property with their permission and an easement would have to be drawn up to go along with that. The degree of maintenance that would be associated with this would remain to be seen. The other option would be to surface flow the overflow that would come from the north of the Waldman's property. This would involve more of a shaving of the ground on the property to direct the surface flow of the water to the lake instead of piping it.

The drainage in this area and on this property was discussed at length.

Mr. Venezia stated that the crawl space will be vented so that when the water comes through it will come in and then out.

Mr. Atkins asked if there has been a design engineered yet for the piping to address the drainage.

Mr. Lightfoote stated that at this time it is just sketch out on a napkin type of thing, but the elevations have been confirmed.

Chairman Harvey stated that they will let the engineers work this out. The Town will do whatever it decides it can afford to do. Along as the applicant is willing to sign the easement then it is up to the Town of Gorham to implement.

Chairman Harvey asked if there were any 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.

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. Atkins asked who will maintain the piping for the storm water drainage.

Mr. Lightfoote stated that it will be the responsibility of the Town to maintain the drainage pipes.

Chairman Harvey stated that a Flood Plain permit will need to be issued for this project.

Gordon Freida, Code Enforcement Officer, stated that he is the one that issues the Flood Plain permit.

Mr. Atkins asked what the building height was going to be.

Mr. Venezia, stated that it will be 25.9 feet in height.

Mr. Dailey stated that the Town has design guidelines and asked if they would be in compliant as far as color, vegetation and those kinds of things.

Mr. Venezia stated that he believes they will.

Mr. Dailey made a motion to approve the site plan with the following conditions. 1. Roof drains to drain to splash block on the west side of the residence. 2. The Town of Gorham is granted a 15' utility easement along Lake Drive and a 6.9' utility easement along the south property line to address the storm water drainage. Mrs. Rasmussen seconded the motion. Rasmussen, Harvey, Henry, Dailey & Farmer voted AYE and Atkins voted NAY. Motion carried. (5-1).

Application #10-2016, Scott Kuperus, owner of property at 2631 Main Street, request site plan approval to change the use of property to a laundromat in the basement and apartments on the first and second floors.

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

Scott Kuperus was present and presented his application to the board.

Chairman Harvey asked Gordon Freida, Code Enforcement Officer what he has found as far as ADA requirements.

Gordon Freida, Code Enforcement Officer read several sections out of the New York State Existing Building Code. It was determined that it must have at least one accessible building entrance unless it is technically infeasible. Where compliance with Section 308 Accessibility For Existing Buildings is technically infeasible, the alteration shall provide access to the maximum extent that is technically feasible.

Mr. Dailey questioned how the waste water from the laundromat is handled.

Chairman Harvey stated that the way the Hamlet of Gorham sewage treatment plant operates is that it goes into a septic tank; the liquid then goes to the plant and every so many years the tank gets pumped.

Mr. Freida stated that the Sewer Department has been contacted and a filter sock basin has to be placed prior to going out to the intake to catch the lint.

Chairman Harvey asked if there were any 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. Henry 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. Atkins seconded the motion, which carried unanimously.

Chairman Harvey asked if there was going to be a sign for the loading and unloading parking spot.

Mr. Kuperus stated that he will have a sign with a 15 minute time limit. This will be enforced by Mr. Kuperus.

Mr. Henry made a motion to approve the site plan with a condition that a loading and unloading sign will be placed in the parking area with a 15 minute limit. Mr. Farmer seconded the motion, which carried unanimously.

Application T-01-2016, Pelican Point LLC, owners of property at 4789 County Rd 11 & a vacant lot on County Rd 11, request rezoning the two parcels from Residential R-1 District to General Business District.

The Town Board is asking for a recommendation from the Planning Board on the rezoning request.

The applicants purchased the two parcels October 30, 2015.

The two parcels are adjacent to the existing Marina property.

Terry Principe, General Manager of Pelican Point Marina, stated that their main intent was to provide additional parking for boats, trailers and vehicles. "I don't believe that you wanted us to turn this into the German Brothers of the east side. Because what they do over there is park everyone up and down the side of the road. We've gone to great lengths and spent a lot of money not to do that. In 2004 we knocked a house and garage down in order to put parking in."

Chairman Harvey stated that you want to extend the marina use to those properties.

Mr. Principe stated correct. "The other option is to turn people away or tell them to park up and down the road, which is certainly not safe."

Chairman Harvey stated that he would like to go through some of the existing codes, which will help the board as well as the applicant.

The definition of a Marina in the Zoning Local Law of the Town of Gorham is: A lot, building, structure, pier, dock or portion thereof located with shoreline frontage and access to navigable water and used for the launching, mooring, rental, sale, fueling and/or repair of watercraft

and including such boat storage, boat launch facilities, and such sales of bait, tackle and marine supplies as may be accessory to such marinas. The term "marina" shall include "yacht club."

The General Business District (GB) allows marinas by special use permit. If the two parcels are changed from the Residential R-1 district to the General Business District, the applicant must file for a Special Use Permit and Subdivision approval with the Planning Board.

31.8.11 Outdoor Storage: Outdoor storage in conjunction with a retail or wholesale business in the FP, and GB Districts is permitted, in accordance with the following requirements.

A. Locations of all areas used for outdoor storage shall be shown on the site plan.

B. No outdoor storage shall be permitted within the setback required for accessory buildings, unless this requirement is specifically waived by the Planning Board during Site Plan Review.

C. In the GB or I Districts, outdoor storage areas shall not exceed 20 percent of the area of the lot.

D. All outdoor storage shall be enclosed by buildings and/or fences, walls, embankments or evergreen shrubs or trees so as substantially to screen such areas from view from any street or residential district. However, the Planning Board may determine, during Site Plan Review, that such enclosure is not necessary in connection with all or a portion of necessary and reasonable outdoor storage that is an adjunct to retail sales.

31.9.13 the special use criteria for Yacht Club, Marina, or Boat Launch

The Planning Board shall determine that the site is suitable for the intended use.

Compatibility with adjacent uses. The location of the proposed use and structures and the general character of the development proposed shall be compatible with their surroundings and such other requirements of this chapter as may apply.

New Marina projects must incorporate best management practices in their design, in order to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands.

Outdoor lighting shall not project light onto nor shall light sources be visible from neighboring land properties.

The site plan must show appropriate plantings and screening of parking and storage yards.

Chairman Harvey asked how they are going to buffer the adjacent residential properties in terms of noise disturbance and visibility. Those are the issues the Planning Board is going to look at.

Mr. Atkins asked how the parcel was going to be used. Is it going to be dead storage for winter?

Mr. Principe stated that there could be a number of storage uses. "A. for trailers, and by the way this property's been used for quite a few years to do exactly what I'm proposing. There's been boat trailers and cars parked there for a number of years. So one intention would be I have empty trailers. Another intention might be boats that aren't planning on going in and out and the third might be for the customer's vehicles when they come to use their boat.

Mr. Atkins asked if there was going to be a lot of in and out every day. "Would that be the intent or could you mitigate that?"

Mr. Principe stated that it depends on how he uses it. "From the boat and trailer standpoint that could be long term. It's really not intended at this point I don't anticipate using it in the winter.

Mr. Dailey asked if he envisions in about 5 or 10 years seeing a stacking facility there.

Mr. Principe stated he does not know if he will ever get into a stacking facility because that would require a lift and he can't image wanting to drive that across County Road 11.

Chairman Harvey asked if they have a business plan in place that shows the number of clients, the number of boats. The Planning Board will be looking at this for the Special Use approval.

Mr. Principe stated that his intention with the purchase of these parcels was allow them to elevate some of the swelling. The other problem that they encountered is that customers don't come and get their boats. He has to call them to come get their boats so that he has room for the summer customers.

Chairman Harvey stated "for the record I'm going to ignore the remark that it's been used for a number of years because it is R-1 residential and I would never advise you during a public hearing to make such a claim unless it predates the zoning."

Mr. Principe stated that the one thing that he would stress is that since 2004 the one thing that he feels they have been most conscious about is the safety feature.

Chairman Harvey asked if the metal clad building is to be used and if it is going to stay.

Mr. Principe stated that he has no plans on tearing it down.

Chairman Harvey asked if they and the customers use the driveway that is there next to the sewage treatment plant.

Mr. Principe stated yes.

Chairman Harvey asked if anyone from the public would like to make a comment.

Robert Baxter stated that he and his wife own the adjacent property to the proposed. "Mr. and Mrs. Lewis owned the property prior to that. Yes they stored a few boats on the lot maybe four or five in a given year. But for two and a half months from the first of April through June 18 there was 60 some odd boats and boat trailers being stored on this piece of property. Including the area not just next to my lot but behind my lot. An access road was actually put in to drive up the slope and park trailers behind me. As far as the access to the property, there is no direct access from the existing marina. There's no stream crossing over the creek. All tractors, trailers must go out on County Road 11 and cut back in. For the board's advocacy, there are two homes across the street, the Dellapietra's and the Lewis's who utilize street parking right off of County Road 11. That street parking is directly across from the entrance of this lot, which concerns me greatly with cars going in and out."

Chairman Harvey stated that once they own this property and make it continuous, one of things the board looks at during the Special Use Permit and Site Plan review to expand the Marina's use, is the Town's Access Management Plan. The existing drive into the property the Planning Board will strictly review. The Planning Board would have the purview to take that away and require the access to be changed in compliance with the Access Management Plan.

Mr. Baxter stated that "there is a bus stop not ten yards away from the entrance that stops and picks up two kids. One on each side of the street. That's nine months out of the year. That includes the optimum storage and movement of vehicle periods from April to June and September to November. So you will have all that traffic and bus stops and kids getting picked up across the street. Huge issue. The site distance on exiting this property is no longer than 12 yards on either direction. If you sit in there in a vehicle you can't see left you can't see right. You can't see the cars that Terry brought up zooming down.

No they're not they're customers but those are the cars who are going to kill a customer or kill a child or kill one of the residents who live there. Despite the speed signs that were put up by the County or the State, they're useless, because there's no enforcement. I sat by the sign this morning at 11:30 and counted nine cars going down the road. The average speed limit of those nine cars was 45 miles an hour, 52 at the high and 39 at the low and that was at 11:30 that wasn't in the morning before going to work that wasn't on the weekend. This whole idea of utilizing this lot for anything other than its intended use of residential could be catastrophic. I think it is a huge huge mistake. I'm sure you are all aware of the flooding that occurred two years ago. The damage it caused to the marina and all the houses along there. Any change or alteration to the existing foliage and ground cover is just going to increase the force flow of water coming down and going into that creek. If you happen to drive by two years ago the debris field with silt and mud and sticks and logs went out 500 yards out of that creek and into the lake. Even the rain on May 29th the debris field was 150 yards out. So you get the change in uses and adding other things to it, it's ruining the lake and it's ruining the people around us. I for one will be opposing this at the Town Board and at the Planning Board if it gets there."

Chris Langan stated that they live kitty corner from the driveway. "Just to reiterate what Chip said. I have had firsthand experience, and I get that Terry wants to be as safe as possible and the people that work for him try to be as safe as possible, but you can't always predict what the other person is doing on the road. I was just missed by somebody coming out around a tractor with a boat and trailer pulling in there because they don't know what's going on and we don't have enough room there. Especially coming from that blind corner from the left side. I am one with my Grandson and I'm very concerned about it. My other concern that I have, I hear everybody talking about the topology. I know you understand what the topology is over there and the gully, I believe is Gage gully that runs up through there is absolutely beautiful and there is no way that they can put those boats and those trailers up on that hill and not have spillage that will not run down into that creek and down into the land and eventually into our lake. That is a big concern to me. You can say it's adjacent but you still have to go out on the road and come back around to get access to that property. So that's a big concern

for us. I just think it's detrimental to all of our residential home values that are right there in that area."

Jon Lewis stated that he sold the land to Pelican Point Marina. "I've known Terry ever since he's been there in 2004 and I've known him to always be a good neighbor and to do what he says he is going to do. He's always been more than helpful with everybody's concerns. He knows their needs on the lake. I live right across the street. I mean I'm dealing with everything these people are, but I just don't want it to be back to when I first moved in the 80's where the Town had a limited amount of land that actually anybody in the area could park on. Cars were up and down the street and everywhere. Terry has gone to great lengths to take all the swelling off the street. I think if I was him I'd want to use the 30 acres behind and I'd want to grow that marina in that way where it would be a safe area. I've never been bothered by anything that Terry's done business wise. I think it's a business we need and we all enjoy and appreciate."

James Weller, representing Sun Aqua Condominiums "This is a dilemma for us. We are a neighbor of Terry. He is one of our owners. We are customers of Terry and neighbors to the Baxter's. We have a predicament but we think that there is an answer. I think you found the answer earlier when you talked about site plan requirements, intensity of use, which would be under survey of you folks very carefully. And with careful crafting with Mr. Principe limiting the use of that lot to infrequent removals of the boats and the trailers by the tractors that would significantly reduce the noise and impact upon the Baxter's. And using the lot for overflow storage would enhance the traffic solution for that area. We think there is a solution that will benefit the Baxter's, the neighbors in general and the marina. We're hoping you can help us find that solution."

Mr. Dailey asked if the Planning Board could put restrictions on what could or could not happen there.

Chairman Harvey stated that "in New York State the official line is and enforced by the courts there is no such thing as contract zoning. To rezone something with limitations no you can't do that. But the Special Use Permit is another matter. From my personal point of view I would love to see more details. Trying to get a handle on the size of the operation. For the Baxter's situation I would love to see buffering. I would love to see you come

in and have a plan for, as this other gentlemen suggested, minimizing the in and out. Talk about the hours of operation. I would love to understand all of those details. Those are details that come with the Special Use Permit."

Gordon Freida stated that he can get all the Special Use Permit information to Mr. Principe.

Mr. Henry stated that he would like to have it demonstrated how this is going to make this area safer.

This will be discussed again on July 25, 2016, for a recommendation to the Town Board.

Mr. Henry made a motion to adjourn the meeting at 9:02. Mr. Atkins seconded the motion, which carried unanimously.

Thomas P. Harvey, Chairman

Sue Yarger, Secretary