

MINUTES
TOWN OF GORHAM PLANNING BOARD
May 09, 2022

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

EXCUSED: Mrs. Harris

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Perry-Alternate will participate and vote on all applications tonight. Mrs. Rasmussen made a motion to approve the March 28, 2022, minutes as submitted. Mr. Hoover seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #05-2022, Jay Newswanger owner of property at 4135 County Road 17, requests a special use permit and site plan to build a pole barn for boat and RV storage.

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

The application was referred to the Ontario County Planning Board.

The County Planning Board made the following comments: 1. Will gravel yard be used for outdoor storage? 2. Are drainage calculations available to document sufficiency of proposed infiltration trench? 3. Will project include on-site landscape buffer?

OCSWCD Comments: 1. Poorly drained soils are present. 2. Consider existing tile drainage that may be impacted. 3. Will 4 inch tile be run underground until daylighting in swale or pond/wetland area? 4. No detail provided regarding swale.

CRC Comments: 1. The building should be designed to contain any toxic vehicle fluid leaks. 2. The applicant should map existing agricultural drainage infrastructure, protect such infrastructure during construction, and repair any damage. 3. Does the Code Officer regularly inspect uses allowed by special use permit to ensure compliance with permit conditions? 4. If outdoor storage is allowed, referring body to consider whether screening is needed and whether customers can choose to have any stored boats/RV/etc. covered in neutral covered materials to reduce visual intrusion.

Drainage around the building was discussed. Chairman Harvey explained that a contour cannot be split in three. There

is a statement on the plan that the grading is 2% minimum for a minimum of 5 feet around the building. The contours on the plan do not show this. The grading on the plan will need to be corrected.

There is not going to be any outside storage so there is no need for fencing.

Chairman Harvey asked how the business was going to operate. Who is going to bring the boats in? How are the arrangements going to be made?

Mr. Newswanger stated the customers would bring the boats and unhook them outside and then he would stack them in the building. He builds pole barns for a living and has had several people inquire about where they could store their boat. He feels that with very little advertising he won't have a problem filling the building.

Mrs. Rasmussen suggested that some sort of sign be put at the road to indicate where the building is located for people bringing their boats or R/V's.

Mr. Newswanger stated that people will only be allowed to come by appointment only. The building will be locked so no one can just come and take their boat or R/V home.

Mr. Farmer also suggested that a sign be put at the entrance with his phone number on the sign.

It was asked if there was going to be electric to the building.

Mr. Newswanger stated that there will be no electric in the building.

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 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.

Mr. Hoover made a motion to approve the Special Use permit and site plan with the following conditions: 1. Modify the grading showing positive drainage away from the building. 2. Modify the infiltration trench for better drainage flow. 3. Confirm on the plan that there is no fencing. 4. Continue to

maintain the hedgerows. 5. Extend the erosion control (silt fence) downhill of the disturbance. 6. There will be no outdoor storage. 7. Business is by appointment only. 8. Signage will be placed out near the road that identifies the business compliant with the Town's setback and signage regulations. Mr. Farmer seconded the motion, which carried unanimously.

Application #06-2022, Nate Stahl requests site plan approval for a single family home on County Road 18.

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

Nate Stahl and Brennan Marks, Marks Engineering were present and presented the application to the board.

Brennan Marks stated that the parcel is on the west side of County Road 18 just south of the town line. There are two parcels owned by Mr. Stahl and they are proposing a single family home on the south parcel. The house will be set quite away from the road approximately 600 feet. They are proposing an emergency pull off on the driveway.

Chairman Harvey asked why they are building so far back from the road.

Mr. Stahl stated noise, view and privacy.

Chairman Harvey stated that if they look at the town's design guidelines it states shortest driveway possible, least earth moving possible.

Mr. Marks stated that they designed the driveway to be the shortest straight path. They are also proposing an onsite raised bed wastewater system. They are also proposing a shared driveway between the northern lot and the southern lot. An easement has been designated on the plan so that the driveway can be shared if the north lot is ever developed. The easement is 60 feet wide at the road. They are proposing a rain garden on the property, which will capture storm water from the driveway.

Calculations for the rain garden will be provided to the town.

Chairman Harvey explained that one of the reasons the town has the requirement for a shorter driveway is for lots that have a lot of steep slope. It's the town's way to discourage someone from building a long driveway down a steep slope. He asked them to give some reasons for going against the town's design guidelines.

Mr. Marks stated that one reason is to keep the gravity fall to the septic system. Keeping the system close to the house.

Chairman Harvey stated that he is not buying that.

Mr. Marks stated that another reason is the privacy and the noise because County Road 18 is a very busy road. There is no vegetation on the site. And the view of the lake.

Mr. Farmer asked what the driveway was made of.

Mr. Marks stated that the driveway would be gravel.

Drainage was discussed. The contours will need to be collected showing positive drainage around the home.

Chairman Harvey asked them to explain to the board about the erosion control measures and give them some reasons to overcome the town's design guidelines otherwise the board is going to want the home moved back up the hill.

Mr. Marks stated that they have provided swales along the driveway and check dams to control erosion on the drainage of those swales. Also that coupled with silt fence at the bottom of the slope to control the drainage during construction.

Chairman Harvey explained to Mr. Stahl that the County Sewer District well be extended and will include this parcel. He wanted to make Mr. Stahl aware that once the district is extended he will be required to hook up to the sewer.

Chairman Harvey asked if they have done a landscaping plan.

Mr. Stahl stated that they have not done a landscaping plan on paper.

Chairman Harvey stated that according to the town's requirements one will need to be submitted for approval.

Mr. Farmer stated that he would like to see it noted that the driveway remain gravel and not be paved because of the runoff.

Chairman Harvey stated that gravel generates as much storm water flow as a paved driveway.

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

Kathy Baxter stated "perhaps the Town of Gorham needs to spend some time on County Road 18, because he is absolutely right it needs to be back far from that road. People travel 65 miles per hour down that road."

Kelly Bateman stated "I live right next door and the view is great. So I want to know if this is going to impede my view."

Ms. Bateman was shown the plan where the home would be built.

Chairman Harvey asked her if she was ok with where the home was going.

Ms. Bateman stated it was hard to say.

Chairman Harvey stated that is hard to say without a landscaping plan also.

Mr. Marks stated that they can add and submit a landscaping plan.

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

Chairman Harvey stated that if they are disturbing more than an acre a temporary silt basin will need to be set up and stabilized before construction and this will need to be added to the erosion control plan.

A letter dated April 18, 2022, 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 stated that she votes to leave the driveway to his own discretion. Either gravel, asphalt or concrete.

Mr. Hoover made a motion to approve the site plan with the following conditions: 1. Fix the drainage and the grading around the house. 2. Revise the limit of grading and the soil erosion barrier based on the contour changes. 3. Provide storm water calculations. 5. File the driveway easement document and make it part of the deed on the lot. 6. File a landscaping plan with the town that has been reviewed and signed off by the neighbor. 7. To intercept uphill drainage create a temporary sedimentation basin and show this on the plan. 8. Electric to be underground and added to the plan once it is located by the electric company. Mrs. Rasmussen seconded the motion, which carried unanimously.

Application #07-2022, Pelican Point LLC owner of property at 4801-09 County Road 11, requests a review of their special use permit for the expansion of the marina.

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

Robert Brenner Attorney was present and presented the application to the board.

Mr. Brenner advised the board that they brought the sign back that was placed on the property.

Mr. Brenner stated that there is no intention to expand the marina. They are in front of the board for a compliance review. The primary purpose in coming to the board is to talk about the direction of the marina. They are cleaning up the property making it safer and enhancing the signage. They are going to control the pedestrian crossing on the north side of the property by installing the bridge that was required as a condition of approval back in 2018. The overall number of boats, trailers, and vehicles on site is not proposed to change. The current operators are very cognizant of traffic overflow on County Road 11 and are going to continue to control that. Any future changes are going to be just enhancing the existing buildings. There may be a change in numbers below the cap that was approved in 2018. They are trying to enhance the facility to make it a location for residence in the Town of Gorham as well as people from other communities.

Chairman Harvey asked about the parking in front of the building.

Mr. Brenner stated that they are having that lot resealed, coated and striped. There needs to be true handicap parking spaces there. They will be striped and signage will be in place. There will be transient spaces for customers so that they are not on the shoulder of the road. They have been in contact with office of Tim McElligott, Deputy Commissioner of Ontario County Public Works. They are aware of the corridor study. They are discussing if the County finds it appropriate a potential mid-block pedestrian crossing to help control pedestrian flow. They are also cleaning up the signage on the front of the building. There was about 100 square foot of signage they are looking to go down to two sign boards that are approximately 5'x 2'. Any yard lighting that will be installed will be dark sky compliant. There won't be any spillage beyond property lines.

Mr. Brenner stated that they are here for the two year compliance hearing and ask that the Planning Board permanently approve the special use permit as was discussed in 2018. They understand that any changes need to come back to the Planning Board for approval.

Chairman Harvey asked if anything is changing with the docks.

Mr. Brenner stated no. They have reviewed the uniform docking and mooring law and have discussed with State Office of General Services and everything along the frontage is in compliance. There is no proposed changes to the docking facilities.

Mr. Farmer asked if they are filling all the slips or are they loading boats and letting them use the slips.

Mr. Brenner stated that they continue to have the current mix of operations. They have the dry dock customers where they launch the boats and then they have the wet slip customers that seasonally moor their boats. They also allow for a daily launch. The operators of the marina do all the launching of boats.

Mr. Farmer asked about trailer storage.

Mr. Brenner stated that they are focused on minimizing the number of assets that are on the property. The reason for that is the conditions the board placed upon the operation in 2018. Many of the trailers are going to another site they will not be stored on County Road 11. The daily trailers and cars will be on the marina property. The total unit count that was set by the board in 2018 includes the daily customers, seasonal customers and the grab and go food customers. When they were in front of the board in 2018 there was discussion of boat storage on their parcel on State Rt. 364. They are not intending to activate that at the moment. They do understand that even though this was discussed during the special use permit approval they still would need to come back for site plan to have boat storage on the State Rt. 364 property. They were also asked if there was anything they could do to put more boats inside along the County Road 11 frontage. On the southeast corner of the property there are now very large piles of tree limbs and debris. They are entertaining taking that debris out and building a pole barn to get more boats inside.

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

Kathy Baxter - "I'm your neighbor at 4787 right next door. You say that you're not parking things on the lot next to us and yet a couple days ago there were trailers there. There have been trailers there several times in the last couple of weeks."

Chairman Harvey asked what parcel the trailers were parked on.

Ms. Baxter stated on the lot adjacent to her house on the opposite side of the creek. "That is supposed to be car parking only. Let me go back for a second with regards to that sign. I'm not sure where he got it. It was not on the property last week. I don't know about the other neighbors." She asked a neighbor that was in the public. That neighbor stated that she did see the sign there the last few days.

Ms. Baxter stated "the buildings do look much better. I appreciate that. As far as the marina allowing the public to launch and being a great asset to the Town of Gorham, I myself know that they have turned away guests at my house. They have turned away Mennonites pulling a boat with a child in it behind

their horse and carriage. I'm not thinking that this is what the Town of Gorham has in mind."

Chairman Harvey stated that it depends on why they turned them away.

Ms. Baxter stated "There's no reason for them to turn away my guests because we have a place to park our own trailer. They pick the boat up at our house they put it in the water and they put the trailer back in our driveway."

Chairman Harvey asked if this is something that happened this year.

Ms. Baster stated last year. "It's yet to happen this season. If the town checked for compliance of all the conditions that were made the last go around of this because there was to be a barrier put on the erosion hill between our house and the lot next door. That's never been done. It's never been check on. So I'm understanding sort of now that unless the Zoning Compliance Officer gets a complaint he doesn't check on anything. Is that true? When you guys make all these conditions when it comes to all these special use permits how is that monitored? How do you keep track of whether or not the conditions are met?"

Chairman Harvey stated that if it has to do with construction it is tied to the building or certificate of compliance that the zoning officer issues. If it is operational as time allows those things are checked. And the town responds to complaints.

Ms. Baxter stated "so I have to just keep complaining. I can pretty much read my husband's exact statement from 4 years ago and nothing has changed. The traffic is just as bad as it was. The parking is still on the lot next to us, not just cars. They haven't done anything different. I'm sort of over it to be honest. I think the town when they issue these special use permits need to come up with a better system of monitoring the compliances there."

Chairman Harvey stated that is why we have these public hearings and that's why they have a renewable permit. "Mr. Brenner is representing a new owner. I would not be out of line to say that the town had a lot of struggles with the previous owner."

Ms. Baxter stated "the new owners while I'm here I'll just mention they need to be aware that there's a tree on your property at the back of my property that is going to fall and hit the house before very long. The previous owner refused to have it removed when I had tree guys there last year."

Linda Roche asked if she heard correctly that what they are seeking is a permanent ok on the 2018 approval.

Chairman Harvey stated that is what he has asked for but the board has not decided whether it is permanent or a renewal yet.

Ms. Roche stated that she has a concern about making it permanent. "Because it was not permanent in 2018 and we're still dealing with, I live 3 properties north of the marina and we're still dealing with many of the things that were brought up in 2018. So as much as I want to believe them, I wanted to believe the other guys too. What he has presented sounds very good and I truly hope it goes through but I would be very concerned about making it permanent without seeing that it's done."

Someone from the public questioned how large the building would be that they may build on the southeast corner.

Chairman Harvey stated that on the application it shows a future pole barn 40' x 90'. He explained that when they are ready to build the pole barn they will need to apply to the Planning Board for site plan review. That is not getting approved tonight.

Mr. Brenner stated "to address Ms. Baxter's comments the approved resolution in 2018 I think what she's referring to said property at 4789 County Road 11 is to be used for overflow customer parking during boating season. The full intention is that during the boating season it would be used for vehicular parking and in the off season it was discussed in 2018 that it would be used for trailers etc. So that's why she sees that now. They won't be staged there during the season. I'm happy to sign an affidavit for posting of the sign. The sign was there for the statutory period of 5 days. I was very transparent in bringing the sign and talking about it and no other applicant tonight did so I'm very comfortable to sign that and have that notarized that the sign was up. As far as turning customers away if it's a safe condition we're going to be servicing as many people at that marina as we possibly can as long as we are not clogging up the lot and creating unsafe conditions. The Mennonite example with the horse and buggy I don't think we're going to engage in that because it doesn't sound very safe with the road and traffic and all of that. On compliance the Code Officer did a compliance check when our clients acquired the property before we submitted this application. That was something that was important to us. So he is going to continue to do that. On the tree that I heard about we'll certainly look into that. That's not a problem. On the slope issue I have a photo that was submitted in 2018 of the bank in question. Following the approvals in 2018 geotec style fabric was installed. The bank is stabilized and there is some vegetation that has grown. So that is done and I believe that

situation was addressed. So if you see this photo from 2018 the existing conditions are drastically different. That slope is stabilized. There's grass growing on it. And there was additional soil placed here at the..."

Chairman Harvey asked if they would have an objection if the board asked them to have the Soil, Water, Conservation District come and do a review of the bank and make recommendations.

Mr. Brenner stated that he thinks they would be fine with that. "The thing that is important to discuss, so we would come back for the additional pole barn we weren't seeking for approval of that tonight. Our understanding and I represented the owner in 2017 and 2018 for full disclosure on that. So our understanding and reviewing the minutes and talking with Sue and Jim is that this was a permanent special permit at that time. The condition was a two year compliance review. And the reason for the compliance review was as a result of the 364 County Road 11 corridor study and the Planning Board having a desire to have us come back in to see if we could work with the County once that study was complete to help facilitate any of those improvements along County Road 11. So it actually is, if you review the minutes a permanent Special Use Permit at the current conditions. That's not to say that at any time if the conditions are violated Jim's office could issue a violation notice or if the violation is not abated the Special Use Permit could be revoked. But I think it's important just to reinforce that it is a permanent permit. And when I sat down and said we're here for a renewal it was really in the interest of collaboration because that's the way it was advertised. But if we are going to get into the nitty gritty on what the resolution said and what the discussion was it was a permanent special permit. We're not proposing any increases in size. We do think it's worked well. Perhaps Jim can give a report to the board on compliance but my understanding is that his office believes it's working well. So we need it to remain in effect so the business can operate the way it's operating without interruption. Our clients are putting a lot of money into the facility and it's important to have a baseline that they can work off of while their making those investments and making the facility safe. Without having to come back in every two years. That's why in 2018 it was made permanent. It was made permanent at a number by the way that was lower than what was originally requested because quite frankly I think what was asked for was unreasonable and that is why the Planning Board went on a fact finding expedition had us come back three or four times and approved it at the current number. So what we're really looking

for tonight is an affirmance and satisfaction of that condition for the permanent special permit."

Chairman Harvey asked if there may be potential changes on the west side of the road.

Mr. Brenner stated "yes and what is driving that is that building is in an awkward spot. It was the subject of a sewage flood not a rainwater flood. About 6 years ago there wasn't a check valve so the sewage from what I've been told was about 3 feet high in the building. The only reason that the building is remaining there to be perfectly honest and transparent about it is to maintain the footprint. The building needs to come down and be rebuilt. We can rebuild in that footprint but I'm not sure that that's the best location for the building."

Chairman Harvey stated that that is not the best location for a building on that side of the street. Moving the location would open up space to maneuver the trailers for boat launching to make it safer.

Jim Morse, Code Enforcement Officer stated that they have gone above and beyond as far as communication since they have taken ownership.

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

Mr. Brenner stated that he has met with the neighbor to the south of the marina Mike Smith and he voiced that he had a concern with potential drainage into his yard. "The new operation is inclined to address concerns that are voiced within reason. So we are going to be working with Mike to take care of that issue for him."

Chairman Harvey asked them to give the board an idea when they think they will be able to get the new signage up and the bridge work done.

Mr. Brenner stated that they are looking to do all that this season. The signs will go up immediately and the bridge will be done before they get into the heat of the season.

This was discussed and 90 days was the time agreed on.

The tree that is falling on the neighboring property was discussed. Mr. Brenner stated that they will look into this and if the tree needs to be taken down it will be taken down.

Mr. Farmer made a motion to approve the compliance review on the Special Use Permit with the following conditions: 1. The operation has 90 days from this date to bring the site into compliance. 2. Work with the County for the mid-block crossing. 3. Meet with the Soil, Water, Conservation District on the bank for recommendations on stabilization. Mr. Hoover seconded the motion

Mr. Hoover made a motion to adjourn the meeting at 8:56PM.
Mr. Kestler seconded the motion, which carried unanimously.

Thomas P. Harvey, Chairman

Sue Yarger, Secretary