

Town of Gorham

4736 South Street
Gorham, New York 1461

PLANNING BOARD

Monday, August 26, 2024 7:30 p.m.

MINUTES—Approved

The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Planning Board. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.

Board Members Present: Thomas Harvey, *Chairperson*
Lizabeth Rasmussen
Bob Farmer
Richard Perry
Mike Kestler
Andrew Hoover
Jeremy Stowe, *Alternate*

Board Members Absent: Gabrielle Harris

Staff Present:
James Morse, Town of Gorham Code Enforcement Officer

Applicant Present:
Doug Eldred
Sean Condon, DDS Companies
Jacob Horst
Leon Newswanger
Andy Prestigiacomo
Allan Stern
Jason Dobbs, Parti Partnership
Evan Gefell, Costich Engineering

Others Present:
Marty Blumenstock
Kathe Coyle
Helene & Bill Messner
Gene Gibson
Ed & Gail Kaiser

Helen & Paul Babiarz
Rip Neary
Jim Bonhag
Martin Moll
Cathy & John Elliott
Joe Bengé
Lori Dominico
Peggy Albright
Margaret & Elliott Foo
David Smith
Curvin Shirk
Tom Whipple

Other's Via Zoom:

Mark Becue
Brian Mastrosimone

1. MEETING OPENING

The meeting was called to order at 7:30 p.m. by Mr. Harvey.

Mr. Harvey said we have several public hearings this evening. One is the reopening of a public hearing that was adjourned at the last meeting and several of them are new. For every application, except the subdivision the Board is required by law to take action on the environmental review first and the determination of significance, for the other site plans we will open the public hearing and take comments. If the Board feels they have enough information they will close the public hearing and take action. On the application themselves, the Board can deny, they can approve as submitted, or they can approve with modifications.

2. APPROVAL OF MINUTES OF JULY 22, 2024

■ A motion was made by MS. RASMUSSEN to approve the minutes from JULY 22, 2024 and the motion was seconded by MR. KESTLER.

Motion carried by voice vote with all voting aye.

3. LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Public Hearings will be held by and before the Planning Board of the Town of Gorham on the 26th day of August 2024 commencing at 7:30 p.m., Eastern Daylight Savings Time, at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following applications and to discuss all matters relevant to the environmental review under the New York State Environmental Quality Review Act:

PB #88-2024: LEON NEWSWANGER 4112 LAKE TO LAKE ROAD, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 1260 square foot private schoolhouse on the same tax parcel as their single family residence. The property is located at 4112 Lake to Lake Road and is zoned FP Farmland Preferred/Farmland Priority.

PB #89-2024: JACOB M. & MARTHA HORST 4097 YAUTZY ROAD, CANANDAIGUA, NEW YORK, 14424: Requests subdivision plat approval for a single lot subdivision known as the Subdivision of Lands of Jacob M. & Martha Horst creating Lot #1 consisting of 4.225 acres and Lot #2 consisting of approximately 35 acres of the remaining land. The property is located on the south side of County Road 18 west of Yautzy Road and is zoned FP Farming Preferred/Farmland Priority.

PB #90-2024: ANDY PRESTIGIACOMO DEEP RUN COVE, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 21 x 50.5 Multi-Use Recreational area. The property is located at parcel Tax ID# 127.11-1-52.00 on Deep Run Cove and is zoned R1 Residential and LFO Lake Front Overlay District.

PB #91-2024: ALLAN STERN 3948 STATE ROUTE 364, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 3956 square foot two story single family residence. The property is located at 3948 State Route 364 and is zoned R1 Residential and LFO Lake Front Overlay District.

PB #92-2024: LETOURNEAU CHRISTIAN CENTER, INC 4950 COUNTY ROAD 11, RUSHVILLE, NEW YORK, 14544: Requests site plan approval to construct a multi-purpose facility to accommodate indoor sports, social events and communal activities. The project will also involve a lot line adjustment, sitework for new parking areas and additional vehicle circulation throughout the property. The property is located at 4950 County Road 11 and is zoned R1 Residential and LFO Lake Front Overlay District.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Thomas P. Harvey, Chairperson
Planning Board

4. CONTINUED PUBLIC HEARING

PB #79-2024: SPRINGHILL SUBDIVISION LLC 1777 EAST HENRIETTA ROAD BUILDING A SUITE 100, ROCHESTER, NEW YORK, 14623:

Final Overall Subdivision and Phase 1 approval of 80 lots consisting of 55.6 acres known as the Scenic Ridge Rise Subdivision. The property on the east side of NYS Route 364 south of Angela Way and is zoned R1 Residential.

Mr. Harvey said the applicant is here. Is there anything new to report? I think we were waiting for some drainage changes, cost estimates for the letter of credit, and for you to be current or have an agreement with the Town Board for your debts to be paid.

Mr. Eldred said I haven't gotten any comments back. I addressed all the comments that came from MRB but because of the dispute, if you will, on the fees being charges by the Town Engineer I haven't gotten a response from MRB on those issues.

Mr. Harvey said so we are still waiting for those varies things.

Mr. Eldred said at a different meeting I made a request for the Town Board and I don't know what happened with that about not having to put a future watermain and a letter of credit and I don't know if that got addressed with the Town Board or not.

Mr. Harvey said I thought that was addressed by the Town Board last year.

Mr. Morse said they discussed it but that was during the "changing of the guard" as far as the Board is concerned. My suggestion would be to send the Supervisor an email in regard to your dispute as far as the hydraulic study as well as not establishing the letter of credit for the water service extension to the other property so they can vote on that at the next meeting.

Mr. Harvey said we also got a couple of emails from Mark Becue wanting to basically reopen the environmental review because he is not satisfied with the traffic study. Is he here?

Mr. Becue said yes, I am online.

Mr. Harvey said while it was true that some of the sampling was two hours in the morning and two hours in the afternoon what DOT should have explained to you was they do their own traffic counts. They do them periodically through the years and through the seasons and they make adjustments for everything you mentioned in your email. Again, it has been three years and DOT will reevaluate when the final is passed and approved. That is standard procedure. There is no basis at all, in my opinion the Board can speak otherwise, to reopen the traffic study.

Mr. Becue said I came into the office and looked at the traffic study and made copies. It was at the bottom of the file. It has probably been a few years since anybody has looked at it. The adjustment that was made for future traffic, this was done on May 5, 2021, was just a 1% increase per year. There was no attempt to extrapolate any increase for seasonality or anything of that nature that is in the report that I have seen. It was a very simplistic 1% per year increase going forward. This was done in May of 2021 when we were just coming out of covid and the traffic as nowhere near what it is today. Certainly it's nowhere representative of what occurs on a seasonal basis especially on a Thursday, Friday or Sunday on Route 364. It's a gateway to Keuka Lake, to Penn Yan, and to a lot of other areas. Likewise there is a lot of traffic coming the other way for a variety of events.

Canandaigua is a bit of a resort area. From what I can see in the report, I've read it, it does not take into account any of that. It does recommend that there should be a turn lane but they decided against it. Given that it is three plus years later and we are now out of covid it is a different circumstance entirely. The traffic has far more than increased 1% a year from 2001.

Mr. Harvey said do you understand that DOT has their own numbers and not just the ones that are in the reports that were done.

Mr. Becue said there was no mention of that in the report and there was no mention of that when I spoke to them.

Mr. Harvey said exactly that is what I'm telling you and that is how it works. DOT looked at his information and compared it to their own traffic count data and it was inline or actually below what they projected. That is why we got no comments back from them on the current design.

Mr. Becue said we are three plus years later, Tom, and it's not just about how long it takes to make a turn.

Mr. Harvey said I understand that but do you understand that DOT has traffic data that goes back years and years including current data. There was a corridor study that was done on traffic counts in 2018 and 2019 as well by DOT and Genesee Transportation Council. Again, I'm sorry they didn't explain that to you but they should have.

Mr. Becue said well what they did explain to me is that when there is an application for a road permit they are going to look at this all again.

Mr. Harvey said that is correct.

Mr. Becue said so if they are going to be looking at it again wouldn't it be prudent to get a new traffic survey in conjunction with that rather than waiting and going through approvals and then putting everything on hold to do the new survey. Wouldn't it be prudent to do it now and then we would be dealing with current information.

Mr. Harvey said and then what when he makes his application to DOT we are going to do it all over again.

Mr. Becue said well if he gets approval.

Mr. Harvey said all you are trying to do is delay the outcome.

Mr. Becue said it's a safety issue. It's not about how long it takes to turn. The traffic is very heavy. There is a lot of traffic heading south on Thursday and Friday afternoons and evenings. If somebody goes to make a lefthand turn they are going to get rearended. There is traffic coming the other way. It is a very busy road and everybody is driving fast.

Mr. Harvey said ok. Do you have anything else to add?

Mr. Becue said yeah it is a safety issue for the community.

Mr. Harvey said you have already said that. Do you have anything else to add?

Mr. Becue said I just think that it would be the smart thing to do to think about this traffic study.

Mr. Harvey said you have already said that as well. Do you have something new to add, sir?

Mr. Becue said no obviously you don't want to hear what I have to say.

Mr. Harvey said I heard what you had to say loud and clear. I'm asking you if you have anything else to add that is new?

Mr. Becue said I don't.

Mr. Harvey said thank you. Does anybody else want to speak on this application? It has been sitting there pending and we keep adjourning the public hearing and at some point this needs to end. If you want me to force the issue, I don't want to adjourn this thing again and again. I will do it one more time. I fully intend to bring the matter to a head. If this Board closes the public hearing next month whatever the status of the review, the bills being paid, the drainage, the cost estimates it will give us 62 days after the closing of the public hearing for you to get your crap together and for us to make a decision by law. If everything is not in then it is going down, so let's get this over with.

Mr. Kaiser said you mentioned revised drainage information, has that been provided?

Mr. Harvey said it has not yet and that is exactly what we are looking for. Does anybody else wish to make a comment? Ok, so we are going to adjourn this public hearing for the last time to Monday, September 23rd at 7:30pm here at the Town Hall. Thank you all for your consideration and comments.

5. NEW PUBLIC HEARINGS

PB #88-2024: LEON NEWSWANGER 4112 LAKE TO LAKE ROAD, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 1260 square foot private schoolhouse on the same tax parcel as their single family residence. The property is located at 4112 Lake to Lake Road and is zoned FP Farmland Preferred/Farmland Priority.

Mr. Morse said just to let the Board know he was granted a variance by the ZBA for a secondary use on their primary parcel.

Mr. Harvey said so basically I know you want to put up a school building and you want to lease the property for that use. MRB had a bunch on questions. Basically I don't think anybody has a problem with the use and understands what is going on. They just want to make sure, given that it is a nonagricultural use, what the plan is for the rest of the property. Is it going to remain agricultural? Are you going to farm around it? You just need to state that for the record. They want to see more details on the stormwater infrastructure. They want to see a scale of one inch equals twenty and your engineer should do that. The proposed site plan shows two driveway curb cuts and you aren't going to get two you are only going to get one for the Access Management Local Law. Is there an agricultural reason for putting the dimensions and not locating the current driveway across the street from the ones that exist today?

Mr. Newswanger said the property doesn't go over that far. The reason why we moved it this way is because there is the crest of the hill and if we move it the more it is not going to be safe for entrance.

Mr. Harvey said that is a good point, fair enough. Is there going to be an outhouse or septic system?

Mr. Newswanger said there is just going to be septic tanks that we are going to pump.

Mr. Harvey said that is acceptable if that is what you are going to do you just have to show them on the plan.

Mr. Newswanger said it is a horse shed in the middle and outhouses on both ends.

Mr. Harvey said is there an infiltration trench detail?

Mr. Newswanger said there is one right here, part of it.

Mr. Harvey said they need to give a little more detail so MRB can decide if the infiltration capacity is sufficient. Other than that the drainage works fine. Does anybody else have questions? Does anybody from the public wish to address this application? Hearing none the public hearing is closed.

Mr. Rasmussen said is there going to be a backstop?

Mr. Newswanger said yes it's going to be right here.

Mr. Harvey said is this public water?

Mr. Newswanger said there is no water there.

Mr. Harvey said there a well location?

Mr. Newswanger said no the plan is to run it down from here.

Mr. Harvey said are you going to supply?

Mr. Newswanger said yes.

Mr. Harvey said if you are going to do that then you have to show it on the plan.

Mr. Harvey said on the environmental assessment form we answered no to all questions on Part 2. Question 4 there are no critical environmental areas that have been established in the Town. Question 8 the Planning Board’s answer is based on the fact that there are no known archaeologically sensitive areas or sites on the state or national register of historic places on or approximate to the project site. Question 9 & 10 have to do with wetlands, waterbodies, and erosion. The Planning Board based it’s answers on the changes to the grading and the stormwater management the Board will impose as a condition of approval to ensure there is no increase of the rate or total quantity of stormwater discharge from the site after development as compared to the existing conditions to be verified by the Town Engineer. If that is acceptable, does someone care to offer a motion to approve the environmental assessment form making a negative determination of significance. Mr. Hoover made the motion and Ms. Rasmussen seconded. The motion was carried with all present voting aye.

**NEWSWANGER SITE PLAN
RESOLUTION
Application #88-2024**

WHEREAS, Leon Newswanger submitted a site plan application, known as the Newswanger Site Plan Application #88-2024, for property located at 4112 Lake to Lake Road on July 8, 2024; and

WHEREAS, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

WHEREAS, A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on August 19, 2024; and

WHEREAS, The Planning Board did conduct a Public Hearing at 7:30 PM on August 26, 2024, at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

RESOLVED, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. Add the outhouse and holding tank notes to the site plan.
2. Provide stormwater calculations in response to the comments from the Town Engineer making sure there is no increase in quantity and rate of runoff.

3. There is no other impact to the agricultural use on the properties.
4. Add the location of the waterline to the site plan.
5. Add location of backstop to the site plan.
6. Eliminate one of the curb cuts and relocate to where it has the best sight distance.

RESOLVED, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

A motion was made by MS. RASMUSSEN and the motion was seconded by MR. HOOVER to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

PB #89-2024: JACOB M. & MARTHA HORST 4097 YAUTZY ROAD, CANANDAIGUA, NEW YORK, 14424: Requests subdivision plat approval for a single lot subdivision known as the Subdivision of Lands of Jacob M. & Martha Horst creating Lot #1 consisting of 4.225 acres and Lot #2 consisting of approximately 35 acres of the remaining land. The property is located on the south side of County Road 18 west of Yautzy Road and is zoned FP Farming Preferred/Farmland Priority.

Mr. Harvey said before we get to the public hearing on this application the Board has to make a determination of significance to make the application complete. This involves splitting off a one 4.225 acres parcel and there is no development plan that has been filed at the current time. Based on that, I will remind the Board, when the Board approves the creation of a lot you are certifying to the world that it is buildable and an accepted building lot. It can have septic. It can have water. The dimensions are correct, etc. In that regard on the short environmental assessment form Part 2 we answered no to all the questions. Question 4 there are no critical environmental areas that have been established in the Town of Gorham or approximate to it. Question 5 which is will the proposed action result in an adverse change in the existing level of traffic or affecting existing infrastructure for mass transit, biking or walkway. The Planning Board will require the location of a driveway onto County Road 18 be shown or shared by both lots in conformance with the Town's Access Management Local Law as a condition of approval with appropriate

easements granted to each parcel. Question 7 has to do with impacts on water supplies and wastewater treatment facilities. No development is currently proposed. The Planning Board shall require a potable water test, deep hole and septic design as a condition of approval. Again, we are certifying that it is a developable lot. Question 8 has to do with will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources. The Planning Board based it's answer on the fact that there are no known archaeologically sensitive areas or sites on the state or national register of historic places on or approximate to the project site. Question 9 & 10 have to do with adverse changes to natural resources wetlands, waterbodies, groundwater, etc. and will the project result in an increase in the potential for erosion, flooding or drainage problems. The Planning Board based it's answers on the fact that site plan approval shall be required prior to any development on the properties. If that is acceptable, does someone care to offer a motion to approve the environmental assessment form making a negative determination of significance? Mr. Kestler made the motion and Mr. Farmer seconded. Is there any further discussion?

Mr. Rasmussen said is that area a wetland?

Mr. Harvey said apparently not.

Mr. Morse said there is a location in the back corner of the clear cut field that's there. We discussed it because it was being farmed last year. The Army Corp of Engineers is aware of it and at their leisure are going to go out and investigate it. Then they can advise what to do with it.

Mr. Harvey said to develop it you would have to map the wetland and the Army Corp of Engineers has a whole certification program of who is qualified to do that marking.

Mr. Morse said he basically sent us a message saying if we had advice to give him and I said no we aren't doing that it's your wetland. So they are going to come out but the earliest they can get out here is the end of October or early November. But they have not done any extra work that we are aware of since then.

Mr. Harvey said ok we have a motion and a second, is there any further discussion? Hearing none the motion was carried with all present voting aye.

Mr. Harvey said ok now we are going to open the public hearing. We have seen the subdivision map and you don't have any development plans. The minimum lot size is two acres if there is adequate perc's there.

Mr. Morse said yes as far as that is concerned but he is at four and a half.

Mr. Harvey said he has four and a half but he's still not at five.

Mr. Morse said it's going to be an engineered system either way because it's in the watershed.

Mr. Harvey said to get a 4.225 acre parcel a deep hole perc test has to be done. You have to show that there is an area on the property that can support a septic system on site.

Mr. Horst said ok.

Mr. Harvey said I would like to see the driveways around here. Again, driveways here in a 55mph road have to be spaced 440 feet apart. You have a 270 foot lot and you are either going to share access with lot 2 or...

Ms. Rasmussen said it's on the other side of the creek.

Mr. Morse said the County has already marked out the driveway. This is the one that we talked about.

Mr. Harvey said yeah well they got to be shown on the plan somewhere.

Mr. Morse said it should be shown directly across the other ones because that is what Chris Day from Ontario County agreed to.

Mr. Harvey said yes we had the discussion, the Board has to agree to it, but it needs to be shown on the plan.

Mr. Horst said I should have been informed of that shouldn't I.

Mr. Harvey said again, Jim has been working with the County Highway Engineering. That's probably the best we can do in terms of spacing on these lots is to get them to line up with the ones that are across the street. That's what this Board would have to conclude to override the general requirements of the Access Management Local Law.

Mr. Horst said ok, so it has to be 400 you said.

Mr. Hoover said 440.

Mr. Harvey said highway engineering and Jim had looked at it and it's probably not practical but we can get close.

Mr. Morse said it's not possible, so we lined them up across from the neighboring driveways. Your entrance would be directly across from Caleb Ayers and the other is across from his neighbor that is what the County Highway agreed to. So you just have to show those locations.

Mr. Harvey said there is no site plan along with these so it is going to be stamped that there is no development until site plan approval is granted by the Town. Get a perc test. I am assuming you are going to drill wells up here.

Mr. Horst said I'm not going to touch this one to be honest. If he wants water he is going to have to drill a well somewhere.

Mr. Harvey said does anyone else have anything? Does anyone from the public or online wish to make comment on this application? Hearing none we are going to close the public hearing.

Mr. Horst said do I need to get a perc test on lot 2?

Mr. Harvey said yes deep hole percolation test is required.

Mr. Horst on just the first lot or the second lot too?

Mr. Harvey said is he going to develop both of them?

Mr. Horst said I'm undecided because there is a wet spot and I would like to put a house right next to it.

Mr. Morse said perc tests are usually good for five years.

Mr. Horst said so what happens if I don't build it because it doesn't pass?

Mr. Harvey said it's going to be stamped no development until you get site plan approval and if you won't be developing it won't be a problem.

Mr. Horst said ok good.

Ms. Rasmussen said so we are guaranteeing, if we pass this resolution, that these two lots are buildable.

Mr. Harvey said if the septic tests coming in then we are approving that and if either lot comes in not being suitable for septic then the approval is null and void.

Mr. Morse said and that is review by Ontario County Soil and Water.

A motion was made by MR. HOOVER and the motion was seconded by MR. KESTLER to approve the subdivision as submitted with conditions. The motion was carried with all present voted aye.

HORST SUBDIVISION RESOLUTION

Application #89-2024

WHEREAS, Jacob & Martha Horst submitted a subdivision application, known as the Horst Subdivision Application #89-2024, for property located on Yautzy Road with Tax Map ID# 129.00-1-37.110 on July 8, 2024; and

WHEREAS, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said subdivision application; and

WHEREAS, A Public Hearing on said subdivision application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on August 19, 2024; and

WHEREAS, The Planning Board did conduct a Public Hearing at 7:30 PM on August 26, 2024, at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and

WHEREAS, The Planning Board finds that there does not appear to be any public controversy in regard to this subdivision application; now, therefore be it

RESOLVED, That the Planning Board does hereby grant final subdivision approval with the following conditions:

1. The driveway locations, for both lots, need to be directly across the road from existing driveway curb cuts.
2. A percolation test must be performed on both Lot #1 and Lot #2.

RESOLVED, That the Chairman of the Planning Board is hereby authorized and empowered to sign the subdivision plat associated with said Subdivision Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Mylar original of the Subdivision Plat, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York;
2. Three paper copies of said Mylar Subdivision Plat, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York;
3. A copy of the deed(s) for all new parcels to be created as part of this subdivision; and further

RESOLVED, That the applicant shall have 60 days from the date the Chairman of the Planning Board affixes his signature on said subdivision plat to file said Mylar and 2 paper copies, along with the deed for each lot, in the office of the Ontario County Clerk; and further

RESOLVED, That failure on the part of the applicant to comply with any requirements of this resolution shall render the approval of this subdivision application null and void; and further

RESOLVED, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

PB #90-2024: ANDY PRESTIGIACOMO DEEP RUN COVE, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 21 x 50.5 Multi-Use Recreational area. The property is located at parcel Tax ID# 127.11-1-52.00 on Deep Run Cove and is zoned R1 Residential and LFO Lake Front Overlay District.

Sean Condon said I'm a Senior Project Engineer with DDS and I am here tonight with the owner and applicant tonight, Andy Prestigiacom, regarding development of a multi-use recreational surface on his property. Mr. Prestigiacom has been developing an age in place home on the east side of Canandaigua Lake so his family can enjoy the accommodations that the area provides. The applicant is now looking to install a multi-use recreational area to further enjoy the properties he has developed. The surface area is going to be encompassed by a stone diaphragm and underdrain to provide temporary stormwater storage and treatment prior to being discharged into Canandaigua Lake.

Mr. Harvey said what is the infiltration rate in those calculations because the Town standards are not to just store it, purify it and discharge it. You are required to get it back into ground water.

Mr. Condon said this is just your standard french drain. It is providing treatment for 1000 square feet at most. We can provide additional calculations but for something of this size it's usually not required.

Mr. Harvey said the Town standards are the Planning Board standards. What we require is no increase in total discharge and no increase in rate of discharge.

Mr. Condon said we can certainly provide the calculations to prove it is not going to be an increase in discharge. We are here tonight in hopes of obtaining site plan approval for this area. We received comments from the Town Engineer and with the exception to one of them we do not see anything that was of concern. Most of them were technical in nature. The only one we would like to talk about now is the description of use. It was noted that since it is not a principle use and it is an accessory use on its own lot and typically it needs to have a primary use with a secondary use.

Mr. Harvey said Jim is that how that reads in the code.

Mr. Morse said an accessory is like a structure. Andy and I talked about that when this first came up with it being on its own lot. The only thing you can do, if you question it, is refer it back to the ZBA for an interpretation on that. As I read it we have always treated anything that is concrete as a structure. We have done it, even here, with people who have fire pits.

Mr. Harvey said I thought we had a provision in the code that allows for accessory uses without a primary but it is only in certain districts.

Mr. Morse said it does say it in that particular district. It does say accessory uses and that's why we went back to it and that's at the discretion of the Board. If you need an interpretation that is up to the ZBA not me.

Mr. Harvey said I think how it works you get to make the decision and if we don't like it you made the decision as the Code Enforcement Officer.

Mr. Condon said we would also like to discuss the portion of the code, Article V, about nonconforming lots. This is a nonconforming lot and doesn't meet the minimum width or minimum areas.

Mr. Harvey said preexisting nonconforming.

Mr. Condon said so it says if two or more lots in the same ownership have a common boundary and do not meet requirements for lot width or areas established by this local law that the land involved can be considered an undivided parcel for the purpose of this law. For us, the adjacent property would be the primary use and this would be the accessory use.

Mr. Harvey said I don't think you need to make that argument given Mr. Morse's interpretation.

Mr. Condon said understood.

Mr. Harvey said we got several letters of concern and I think other people will make comment this evening over this particular parcel. There are adjacent owners or owners in the vicinity that have recreation rights over this property.

Mr. Condon said recreation rights being rights to the water? Is that what you are referring to?

Mr. Harvey said interestingly, I read one of the adjacent deeds, it basically says recreation rights across the property. It doesn't say access it says recreation rights across the property.

Mr. Condon said ok this property is still Mr. Prestigiacomo's.

Mr. Harvey said I understand that.

Mr. Condon said the concern with that being?

Mr. Harvey said if you put up a fence and you lock the gate or whatever how much you have the right to do that and restrict other people.

Mr. Morse said that was your previous comments.

Mr. Harvey said you can't put a gate across the property that people have egress rights over and it's not just the way the deeds read. They have recreation rights. You can't restrict their access to the lake. You can't restrict their use of the property for recreation. I think if you build a recreation court, the way I read it, you can't control if anybody else wants to use it.

Mr. Prestigiaco said that is correct.

Mr. Harvey said it's a little odd situation. Does anyone on the Board have other questions? I will open this up for the public, does anybody want to make comments?

Mr. Moll said I am a deeded right of way to that property and it is totally contrary to what our deeds say. It even says there a permitted structures which may be a picnic pavilion or a fire pit but not a family use like what it's going to be. What he keeps doing is he keeps restricting access to this property over and over again to the people who have deeded right of ways. Back in the day when you first heard this you told him to take the fence down and he never did. It's just ridiculous. We won in court three times all the way to the apelet division and he's just ignored it.

Mr. Elliott said he just continues to ignore everything. It's like our right of way doesn't exist.

Mr. Moll said when I sat down to review my assessment of my property on County Road 1, the deeded property, the person that does the assessment referred to our lake rights. I said but we really don't because they have been taken away from us. But we still have them. It's supposed to be used for people to go down and enjoy the property and the lake and have egress in and out for boats, canoes, kayaks and that type of thing. It's literally locked out to us. We have to go and get permission and someone will come unlock the gate and it could take hours or we can't even get in the day we want to use it. There are two gates. I don't know what the remedy is here. We may have to go back to court.

Mr. Harvey said let me try to add a little bit of clarity to that. The Planning Board will do it's utmost not to approve something to violate your rights, however we can't control the applicant. The Town is not a party to a dispute so you guys either need to settle your differences or take him to court.

Mr. Moll said you specifically did tell him to take down the fence and the fence was never removed.

Mr. Babiarz said I am the adjacent landowner. Yes, you did say to take down those gates and they were never taken down. You also asked us to take a look at the deed. The deed on that road is a right of way and if you look at the zoning 31.8.7 on fences says no fence shall be planted or erected as to encroach on a public or private right of way. That is a

private right of way by virtue of the deeds on the property. It really is a zoning issue which needs to be enforced.

Mr. Morse said we do not enforce deeds. It has to go to court. It is a civil matter. If someone blocks a private drive it is a civil matter through the deed.

Mr. Babiarz said this is not a private drive this is a public right of way.

Mr. Harvey said it is not a public right of way.

Ms. Babiarz said the other thing we are concerned about is this recreational area will not be eighteen feet from our property line. What will the surface be? What will the activities be? What hours will it be used? Will there be lights? Will the surface be fenced in? As I said this is very close to our property line. We are concerned about noise level and disturbances. A big recreation area is different compared to people coming down. We have lived there thirty years and we love to have people come down. They have always been quiet. As a matter of fact we used to have get together's and they would invite us down for picnics. The area used to be friendly and it's changed it's not friendly.

Mr. Babiarz said there has to be a definition of what the multi-use recreational facility is going to be. Is it pickle ball? Is it tennis? Is it basketball? We have to define that. If there is a violation of noise issues who are you going to call? I think there are a lot of open issues on this property and with open issues do you really need to grant further discretion on something. Let's close the open issues first.

Mr. Moll said is there another rule about coverage of hard surfaces on property and does this meet that?

Mr. Morse said on the lakefront it is 25% lot coverage max.

Mr. Moll said a pickle ball court is bigger than that lot, so I don't understand that.

Mr. Morse said the map that was provided shows less than 25%.

Mr. Moll said I'd like to see that. I can't imagine that. What are the measurements of the court?

Mr. Elliott said now if Andy will allow us access to the course. Now will we be locked out like our access to the right of way and who do we get a key from to get in that? I assume it's going to have some type of fence around it. I play a lot of pickleball and usually there is a fence. Can he answer that?

Ms. Elliott said my problem is before he has said if uses that property and we want to go play pickleball is he going to let us play or is he going to say well my family is going to use it which is very common in this situation. His family would have first use over us

and that's an issue too. We haven't had the right to use the property unless you get the key. So he's blocked us already once and is he going to block us again.

Ms. Babiarz said is there any kind of noise ordinance pertaining to pickleball?

Mr. Morse said pickleball is kind of the new rave. In our Town Law it is enforced by the Ontario County Sheriff's Office.

Mr. Babiarz said the City of Canandaigua are now have trouble with the courts at Sonnenberg trying to figure out how to mitigate the noise levels from pickleball. The same thing can happen here.

Mr. Moll said and it changes our traditional use of the property. It takes away our rights.

Mr. Harvey said it is an interesting recreational use and would be tough to argue.

Mr. Prestigiaco said the fence that I was instructed to take down was the six foot construction fence that was put up when Pellicano did the subdivision. That fence was taken down. The fences that are on the property are permitted fences to the property. There are permits for them. The gate, yes it has a padlock on it, it has a coded padlock with a number that not only Bob Mincer, who is the head of their group has, he has shared with them. All they have to do it put the code in and they get in 24/7. The reason it was locked is because of the transient traffic that we had from renters, who don't have homes in the area, sight seekers, realtors, people who think the road still goes to Thendara. This is a recreational court. Nobody said I was going to put seven pickleball courts with lights and a grandstand where everybody is going to come down. There is nothing more to it and nobody has been denied access. There is a padlock that has a code that is supplied by Bob Mincer who is the head of their organization. You can go see it now or you can go see it tomorrow, full access. I think I answered all the questions.

Mr. Elliott said are the pickleball courts going to have a padlock too?

Mr. Prestigiaco said if anyone wanted to play basketball or whatever you wanted to make up knock yourself out. I'm looking to put a surface in. That is all I am looking to do. I don't know where pickleball came from it's just a surface. If you want to come down and bring a portable basketball hoop and shoot hoops knock yourself out.

Mr. Moll said if I'm bar-b-queuing there and drop charcoal and it damages the surface who is responsible?

Mr. Prestigiaco said I would imagine you are.

Mr. Harvey said does anyone have more comments? Hearing none we are going to close the public hearing at this time.

Ms. Rasmussen said did I read somewhere that the french drain was draining into the lake?

Mr. Harvey said the overflow should.

Mr. Condon said the overflow does.

Mr. Bonhag said 12/16 of 2019 Planning Board minutes you told Mr. Prestigiacomo to remove the gate.

Mr. Prestigiacomo said it was the construction gate.

****in audible conversation from the audience****

Mr. Harvey said has there been an action letter from SHPO on this?

Mr. Morse said I will look but I wanted to clarify that the building permit was issued in 2016 for a four foot fence.

Mr. Condon said we do not have SHPO letter right now. We don't see any issues with obtaining one considering the amount of development that has gone on along the lakeshore these past years. So we will be getting one immediately.

Mr. Harvey said I need you to amend your environmental assessment form because it is inaccurate. I do believe that the floodplain in the wetland Canandaigua Lake would also be a waterbody under NYS regs so that box has to be checked as well. We need those two errors corrected. Everybody is going to be very disappointed but until we get a response from the State Historic Preservation Office we can't complete the environmental review.

Mr. Condon said is there any way we can do it conditional?

Mr. Harvey said absolutely not especially if they come back with a positive comment how do you undo that. You know what the issues are so we will see you next month.

PB #91-2024: ALLAN STERN 3948 STATE ROUTE 364, CANANDAIGUA, NEW YORK, 14424: Requests site plan approval to construct a 3956 square foot two story single family residence. The property is located at 3948 State Route 364 and is zoned R1 Residential and LFO Lake Front Overlay District.

Mr. Gefell said the existing parcel currently has four structures. There is the primary residence, there is two guest homes and then the garage. Mr. Stern is looking to remove all those structures and reconstruct a two story residential home. Looking into the property it is on the slope so the home was situated to balance the grading to cause the least amount of disturbance from access from East Lake Road and also reflecting on the

lakeside so the deck and finished floor isn't so high in the air. We are preserving the lake views, maintaining the landscape, utilizing the existing vegetation, preserving the majority of the mature trees at the water, and maintaining the shoreline vegetation.

Mr. Dobbs said I did a couple graphics to demonstrate the existing vegetation and what proposed will look like.

Mr. Gefell said we are capturing 100% of the runoff to a dry well. We have sized that per the perc rates.

Mr. Harvey said so for the design storm you have an infiltration rate that is equal or exceeds the increase in runoff rate.

Mr. Gefell said yes. We submitted to SHPO and received the letter back. We have positioned the house ten feet closer to the lake than the existing house.

Mr. Harvey said but it is still in the setback requirement.

Mr. Gefell said correct.

Mr. Harvey said it looks like you guys paid attention and looks like you read the design guidelines.

Mr. Dobbs said I have another demographic that demonstrates views through the site. By removing buildings and centering the house we have increased the view.

Mr. Harvey said I like to see a low point in the concrete at least five to ten feet away from the building. I'd like to see your trench drain out there because I'd like to see it go up towards the building more. I hate trench drains right next to the building because they always fail. A couple little tweaks in the grade to make sure the water isn't moving parallel to the foundation it's moving away from the wall.

Mr. Gefell said with MRB's comments we have revised.

Mr. Harvey said other than that it's a good job. Minor comments. You guys did your homework. Is there anybody who wishes to speak about this application?

Mr. Smith said I live to the north of Allan's property. The only concern that I have is we all have deed restrictions on our properties there. The restriction is that people don't build in front of their neighbors. That is the only thing I was concerned with. I spoke with Allan and he told me that he modified his plan to be 104 back from the lake.

Mr. Harvey said what are you concerned with?

Ms. Rasmussen said building too close to the lake.

Mr. Harvey said per a deed restriction because it meets the zoning.

Mr. Smith said it says that the neighbors don't build in front of us if they build a different home.

Mr. Harvey said thank you. Have you looked at your deed?

Mr. Gefell said we didn't see anything in the deed saying that you couldn't build closer than the other homes.

Mr. Smith said I have a copy of it and they told me that the restriction stays with the property. I'm not contesting what he wants to do. I think it's great and it will be a nice looking house. My concern was because originally I heard from neighbors he was going to build closer to the lake so I would sit on my patio and look at the back of his house.

Mr. Harvey said it's not that bad just a few feet closer. Any other comments?

Mr. Foo said I am two houses down and I am fine with the 100+ feet from the lake. I'm a little concerned that they didn't see that in their deed.

Mr. Harvey said well it probably referred to the same property and gave a description that was transferred from somebody else. Sometimes those restrictions don't get repeated.

Mr. Foo said my suggestion would be that the architects find the restriction in the deed and in their professional judgement make sure they aren't violating that.

Mr. Harvey said anybody else? Hearing none I am going to close the public hearing at this time.

Mr. Morse said this went to the County and it is exempt and it does have SHPO.

Mr. Harvey said the Environmental Assessment Form Part 2 all answers were no or small impact. Question 4 stating there are no officially established critical environmental areas in the Town. Question 8 we based our answer on the July 31, 2024 letter from the NYS Office of Parks, Recreation, and Historic Preservation saying they didn't have any concern with archeological or historic resources with regard to this project. Question 9 and 10 which have to do with stormwater and erosion control, the Planning Board based it's answer on the changes to the grading and stormwater management the Board will impose a condition of approval to ensure there is no increase in the rate or total quantity of stormwater that is discharged from the site after development as compared to the existing conditions to be verified by the Town Engineer. In addition the Planning Board will require modification to the grading plan to show positive drainage away from the foundation and to ensure positive drainage away from the home even in the event the trench drain fails or is overwhelmed.

Ms. Rasmussen makes a motion to move Part 2 and 3 of the Environmental Assessment Form and the motion was seconded by Mr. Hoover to approve and to make a negative determination of significance. The motion was carried with all present voting aye.

**STERN SITE PLAN
RESOLUTION
Application #91-2024**

WHEREAS, Allan Stern submitted a site plan application, known as the Stern Site Plan Application #91-2024, for property located at 3948 State Route 364 on July 8, 2024; and

WHEREAS, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

WHEREAS, A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on August 19, 2024; and

WHEREAS, The Planning Board did conduct a Public Hearing at 7:30 PM on August 26, 2024, at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

RESOLVED, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. As-built must be submitted to the Town once construction is complete showing the location of the underground utilities including the electric.
2. Provide deed to the Town for the Town Attorney to review.
3. Grading changes to provide positive drainage away from the foundation.
4. Move the trench drain out away from the garage and provide grading so that access stormwater drains away even in the event the trench drain does not work.
5. All exterior lighting must be dark sky compliant.

RESOLVED, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

A motion was made by MR. PERRY and the motion was seconded by MR. HOOVER to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

PB #92-2024: LETOURNEAU CHRISTIAN CENTER, INC 4950 COUNTY ROAD 11, RUSHVILLE, NEW YORK, 14544: Requests site plan approval to construct a multi-purpose facility to accommodate indoor sports, social events and communal activities. The project will also involve a lot line adjustment, sitework for new parking areas and additional vehicle circulation throughout the property. The property is located at 4950 County Road 11 and is zoned R1 Residential and LFO Lake Front Overlay District.

Mr. Morse said for this application the applicant has requested to be tabled until next month to respond to MRB's engineering review.

Mr. Harvey said so formally the public hearing was noticed and we have to open it and close it. The public hearing on application #92-2024 is now open. The applicant has asked for the application to be tabled so we will adjourn in a minute the public hearing until next month's meeting. Do you have any comments you would like to make on the application?

Mr. Kaiser said can comments be made next month?

Mr. Harvey said you can make them next month, yes. You can make them now.

Mr. Kaiser said well the applicant is not here to address them. They are great neighbors and I am not against it. My concerns and I think Kevin Olvany forwarded you a video I sent a week ago Friday.

Mr. Harvey said could be. This is my first day back in the office after a week off. I don't think I have gotten to that one yet.

Mr. Kaiser said it was about drainage. The stuff they have on the plan I'm not sure how it is going to work. The existing plan calls for stuff to be removed yet the new site plan calls for those items to be there at the same elevations.

Mr. Harvey said I would refer you to MRB's comment letter.

Mr. Morse said we got another one today.

Mr. Kaiser said oh you did. Then I'm also concerned with the stoned or paved parking they have ADA parking and I don't know how you can provide ADA parking with the slope they are on.

Mr. Harvey said you can't.

Mr. Kaiser said right and if they are going to pave it that is going to make the runoff that much faster. Those are just some of my issues.

Mr. Harvey said they have a lot of issues on that piece of property but they have made great improvements but still have a ways to go.

Mr. Kaiser said we have spoken with them in the past about the drainage coming down their driveway and there answer was always we don't have the funds to correct it. It's not just heavy rains it is any kind of rain. I'm across the street with a hand shovel cleaning the pipe out so it will continue to drain. Then every couple of weeks I call the County and the County comes out and cleans it out for us. The big events we are getting more and more of and I can't keep up with those.

Mr. Harvey said share your concerns. I appreciate you coming in. Sorry we are delaying it. Hopefully they will come up with some new answers. Is there anything you want to add?

Mr. Gibson said my house is across from the north driveway. I went back out on the 8th and that is not the first time that it has flooded. With the current situation we have right now it is very frustrating. I have spoken to almost everybody over there, including the Chairman of the Board, and they give me their sympathy. I like the people, don't get me wrong, I want them to stay. But with the review of this there has to be a way to not only address what they are going to do but what they are doing right now. They blame the uphill people for the water coming down to their camp and they don't know how to handle that. They need to somehow address that water coming down from behind them. There is nothing but lose gravel on their driveway. I was out there before the big rain hit shoveling that back up the driveway. Then the big rain hit and I had a waterfall going down the front steps up to my door. My neighbors when they have rebuilt raised their elevations so I am the low house on the block. It's up to the Planning Board to somehow get this resolved.

Mr. Harvey said we will do our best.

Mr. Gibson said who does the calculations on the water levels?

Mr. Harvey said their engineer will have to submit them and then the Town Engineer will review them.

Mr. Gibson said I would like to review them.

Mr. Morse said you are welcome any time to come in and see them. We now have the MRB letter but have not received their response yet but you can see what the Town Engineer sent back to them.

Mr. Gibson said when is the next meeting?

Ms. Rasmussen said September 23rd.

Mr. Kaiser said and any revised plan has to be with the Town ten days prior, is that correct?

Mr. Harvey said five officially but we try to push them to more.

Mr. Gibson said is there anything that can be done with the drainage on the other side of the culvert?

Mr. Harvey said it depends on whose culverts they are. It's a County road so it depends if they have easements and other things. The culverts they can do. They have this big program where they are upsizing and replacing culverts. They have a whole plan on what they are going to do and when they are going to do it. You can check with County Highway engineering at 396-4400 and ask for Tim McElligott, who is the Deputy Commissioner, or Chris Day who is the Chief Engineer.

Mr. Kaiser said upsizing the culvert doesn't do anything but get the water to the lake faster.

****inaudible conversation****

Mr. Harvey said well that's LeTourneau. That's what we will work with them on and why they are not here tonight they still have more work to do.

Mr. Gibson said is there something to do besides address the additional runoff from the building?

Mr. Harvey said there are existing problems and we can take that into account.

Mr. Gibson said how do I make sure you take it into account?

Mr. Morse said we are. I remember talking about your driveway as part of this review. I told them they are going to have to figure that situation out. Again, I don't think the answer is paving it because it just gets there faster. It might have to be a change of pitch.

****inaudible comments from Mr. Gibson.****

Mr. Morse said the one coming straight down the hill is not going to be their legal egress even though the Fire Department gave them their letter. That is still not going to be their emergency egress.

Mr. Harvey said that doesn't meet code.

Mr. Morse said they can write any letter they want that they can still get up there but that will not be the egress that is used for that facility.

Mr. Harvey said we have adjourned the public hearing to be reopened at 7:30pm, or thereabouts, on September 23rd at the next regular Planning Board meeting

6. PRIVILEGE OF THE FLOOR

Mr. Bengé said I want clarification on Lincoln Hill's resolutions. In 2019 the resolution motion #5 said no noise beyond the properties border and #6 said no fireworks. When I made a complaint about this, I talked to Dale and Jim, and Jim referred to those resolutions speaking of glamping and glamping only. In 2022 minutes I confronted Brian about amplified noise coming from the stage and playing music past 10pm because in previous Board meetings he has stated that he wasn't going to be playing past 10pm. Jim spoke on his behalf saying the 2019 resolutions his quiet time was moved from 10 on weekdays and 11 on weekends. They used those minutes to benefit the noise coming from the stage. When I used those resolutions for the complaints with noise and fireworks they were all of a sudden just for glamping.

Mr. Morse said I can speak for myself because I have had a lot of accusations come my way and the Town Board is definitely aware and so is the attorney. I had approached you about an interpretation on this and when you refer to it it talks about three of those resolutions about the camping area. At the time when I asked, is there clarification are these for the entire farm or for the camping. You said, I believe when we approved it it was for the camping.

Mr. Harvey said that is correct, so let's be very clear that was for the application on the amendments that were before the Board at that time. You asked me specifically, and I am going to be very clear in my explanation, we went back and forth on if the restrictions apply to the whole property. My answer was that special use permits and the conditions that are attached to them run with the land. That is not to say that they cover all the uses on the land.

Mr. Bengé said you said in 2022 after Jim used the motion and I asked you directly, it's in the minutes, whether that was referring to glamping or the whole thing and you said that was a modification to his resolutions.

Mr. Harvey said correct, to his special use permit.

Mr. Bengé said so where does it state that three and four and five and six are different then?

Mr. Harvey said I guess that is why you are here, so we are going to make that painfully clear. That is my interpretation of it and the Board can agree or disagree. Those restrictions went with the glamping operation not with the rest of the operation.

Mr. Bengé said and that is quiet time as well. You already refer to the quiet time being for the stage.

Mr. Harvey said for the stage for everything.

Mr. Morse said there is another resolution that has the times because there was a complaint earlier this year prior to school ending and we clarified it with the hours the following morning. Beth actually made the motion for the hours and we went through it.

Mr. Bengé said did it say while school was still in session?

Mr. Harvey said yes.

Mr. Morse said it was nine.

Mr. Bengé said I wrote a complaint to Dale and I have a video, I believe it was June 20th, of music playing past nine from my driveway with a date on my wife's phone.

Mr. Morse said I didn't get that one I got the one from 247 so Dale didn't share that one with me.

Mr. Bengé said I'm just confused how in 2022 that those resolutions were used referring to the noise from the stage and I asked you directly if that was referring to just glamping or not and you then stated that it was a modification to the special use permit and blanketed the whole area.

Mr. Morse said modification to the special use permit.

Mr. Bengé said believe motion four but you're saying five and six do not where it doesn't state anything in there delegating them directly to glamping.

Mr. Harvey said we should have been clearer, agreed, again that is my interpretation. Jim if we could provide those resolutions to the Board in the next agenda package and we will write something up that specifically clarifies it.

Mr. Morse said that would be great. I talked to the Ontario County Sherriff's about fifteen times too.

Mr. Harvey said when is his special use permit up for review?

Mr. Morse said the way you left it last time is when the connection is made to County Road 18 or two years. He is on his fourth renewal. So after seven it is set in stone unless there are modifications.

Mr. Harvey said I think we were very aware that we didn't want problems with the neighbors and wanted to keep coming in because that operation grew and grew beyond the original intention. I personally want to keep a close eye on it.

Mr. Bengé said on top of those things with the rainwater runoff with the retention pond and everything being put in by the DEC and SWPPP.

Mr. Harvey said the DEC has been putting stuff in? I think the DEC asked them and approved their plans.

Mr. Morse said the special use permit renewal that he just currently did, the DEC approved the stormwater retention pond. They never said anything adversely prior to that and they reviewed it and they weren't going to require him to put that in for any improvements to that area.

Mr. Bengé said my emails with the DEC state that Lincoln Hill was outside his permit stipulations and the SWPPP was reviewed and the retention pond was to get it back in compliance of his permit.

Mr. Mastrosimone said I can clarify the DEC thing really quick. Since I have been developing Lincoln Hill Farms I never once broke any codes with moving soil. You have up to one acre to move soil. When I bought the property in 2014 and we were developing, I never in one year disturbed more than one acre. The DEC that came on my property, because Joe you call them all the time, they finally just said what is going on. So they showed up and said this is correct you have not disturbed more than one acre at a time but because you have plans to continue to do this we are going to make you put in a retention pond for the parking lot. After reviewing with my engineer we decided to take that retention pond and put it all the way in the back of the property so that when we have any further growth that I won't have to continue to put in retention ponds. We put in one massive retention pond which was 2300 truckloads of dirt. The DEC just signed off on our SWPPP. There is no water storm issues. There is never water storm issues. That is why I had to put that pond in.

Mr. Bengé said his permit stated no increase in rainwater or runoff opposed to predevelopment are you still able to open an acre a year when your permit says you cannot increase your rainwater runoff?

Mr. Mastrosimone said from the DEC?

Mr. Bengé said no from the Town. Your permit says motion to approve with the stipulation of no increase rainwater runoff in 2018. That is in your special use permit and you are opening land that is increasing your rainwater runoff you are in violation of your permit.

Mr. Morse said we have our Town Engineer review on that and I think you FOILED it from Darby. I don't know if you read it but we have the permit that MRB did that the taxpayers paid for that was an absorbent amount of money. We paid for them to do a review because of all the questions that kept arising saying it's this person's fault or this person's fault. I will add to this a little bit because there has been a discovery not that long ago that across the road from there and the Army Corp is aware of this as well that across from Brian's farm the gentlemen there filled in the wetlands. It flooded his back neighbor's property. We contacted the Army Corp and got the same excuse file a complaint and we will get out there when we can to look at it and determine then what he has to do. They said more than likely he is going to have to clean it out. But he has already, without a permit, built a structure on the property. He is cooperative and apologetic. These are the things that are moving targets throughout the years and I have tried to talk to you, Joe, about it just since we started in 2018. I am not siding or defending anybody. Kevin Olvany and I have been down there every single winter when the water starts running off and the farmers have added drain tiles to those fields. Across the road he has doubled his input into the ditch. I have gotten very angry with the Army Corp, and Tom knows, and I have had an argument with Ag and Markets about this because they continue to allow all this tiling to go on with us having any input. I said I have seen your house with all the water in the backyard and I have seen my house with all the water in the backyard. I watched it in different locations. Brian's property on the far side that didn't have anything directed towards it that whole side was soaking wet. I know the DEC is changing some of the regulations with reviewing stuff but until everybody decides that we are going to work together, like we just started with the DPW on driveways, you are never going to pinpoint who is at fault.

Mr. Bengé said it has been a night and day difference a miraculous difference since he put in his retention pond.

Mr. Harvey said of course because Brian put in more capacity than his facility requires.

Mr. Bengé said Kevin Olvany statement to me directly was that the retention ponds intention is to get him back to predevelopment runoff. Which was the requirement of his permit from day one.

Mr. Harvey said which the calculations were done by his engineer and verified by the Town that he was in compliance anyway.

Mr. Mastro Simone said that retention pond is not only grabbing my farm but all my surrounding areas. There are swales going from the farm on 247, where they just put a bunch of tile work in, which now I'm not catching but I was. This is a massive project. It was a \$300,000 project. I am catching more water than Lincoln Hill Farms needs to and if I only did what the DEC wanted me to do then maybe it would be different. But because we just wanted to do this one and done we decided to but in a massive retention pond.

Mr. Morse said I think other people to have made improvements. Joe, I worked with you and didn't require a building permit to allow you to put in an egress window and backfill

your house an extra four feet. I think we are seeing changes in that area too and Kevin Olvany said to you to go ahead and fill in that little feeder creek behind your house where the cattails were and I know Tom didn't agree with that. We tried to work with you to alleviate your basement issues. I tried to reassure you that we are all on the same team just trying to figure out the situations. Again, that's why I talk about moving targets because we cleaned out one ladies ditch on the other side of Cliff Payne and we did that with Kevin involved. Then you did yours and he did his and the guy across the street, unknown to me, was filling in wetlands because he is in the woods and nobody knew it until the neighbor came in to tell me. Then basically we have the Army Corp that basically says they are too busy. Believe it or not there is a lot of tension between the departments right now because it is all being brought to the forefront. You have people complaining about the quality of the lake water and I am kind of putting the finger back on them. They are putting it on us for a lake house that really isn't going to cause that much runoff. Then up the hill you are allowing a 500 acre farm to drain wherever they want but that is Ag & Markets Law and they are protected. I'm not anti-farming just to make that clear.

Mr. Harvey said we will try to clarify that language and we will put it on the next agenda.

Mr. Morse said I will give you all the resolutions and then you can independently each member can have their opinion on it.

Mr. Harvey said then we will bring it all together and make it all clear for everybody's sake.

7. MISCELLANEOUS

Mr. Morse said on County Road 18 Norman Burkholder brought in a site plan for a house that is at the very top of that hill. Chris Day has already sent to me what he sent him back. He did the septic; it is out of the watershed and he provided all the information so technically this is an administrative review for the house. I don't want that responsibility of that driveway location even if the County signs off on it. Mr. Burkholder called today about it and I said it will be up to Tom on what he says.

Mr. Harvey said yes we are going to require him to come in for site plan approval.

Mr. Morse said and then I talked to Kevin Olvany today about possibly on Lake Drive there is a boat launch there about lowering it to help it drain.

Mr. Harvey said as I recall one of the adjacent property owners handled it.

Mr. Morse said the last thing is the lady that lives directly adjacent to the County park, Nora, wants to donate land to the County.

Mr. Harvey said yes I saw a couple emails. Do we have her contact information?

Mr. Morse said I have her number and I talked to Dale and he tried to call her but she didn't call back. I ran into Terry and he said he was going to have the project manager for the Ontario County Park but I haven't heard anything. I just don't want to lose this opportunity because she wants a small office and she will probably need a variance to the lake.

Mr. Harvey said probably why she wants to give us a little land because we can put up a fence that doesn't meet the Town zoning and it gets her out of having to maintain that existing fence which has some issues now.

Mr. Morse said she said that and I did see that it was pretty obvious and people had pulled their kayaks up on her beach. They are using her property and she said she would rather move her fence brought this way a little bit because there are two trees that they like to pull their kayaks under for the shade. She wants to give that to the County so it's not her liability. She is worried about insurance and doesn't want that responsibility.

Mr. Harvey said Terry and I will get ahold of her.

8. NEXT MEETING

The next regular meeting of the Planning Board will be held on Monday, September 23, 2024, at 7:30 p.m. at the Gorham Town Hall, 4736 South Street.

9. ADJOURNMENT

■ A motion was made by MR. HARVEY, seconded by MR. HOOVER, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 9:32 p.m.

Respectfully submitted,



Thomas Harvey L.S.
Chairperson to the Planning Board