

MINUTES
TOWN OF GORHAM PLANNING BOARD
June 22, 2009

PRESENT: Chairman Harvey Mr. Atkins
 Mr. Frankish Mr. Hoover
 Mr. McCadden Mr. Farmer

EXCUSED: Ms. Watkins

Mr. Frankish called the meeting to order at 7:30 PM. Mr. Atkins made a motion to approve the June 1, 2009, minutes as submitted. Mr. Hoover seconded the motion, which carried unanimously.

Application #06-2009, Charles & Ann Marie St. George, owners of property at 4502 State Rte. 364 requests site plan approval to build a 36' x 36' addition onto existing grocery store for pizza and ice cream sales.

The public hearing was opened and closed on April 27, 2009.

Charles & Ann Marie St. George were present and presented their updated site plan to the board.

Mr. St. George stated that the existing electric service is across the street and overhead. To bring it across the street underground would be very costly so it will remain overhead.

Gordon Freida, Code Enforcement Officer, stated that he has talked to Greg Troost, from NYS Department of Transportation, about a decorative berm along the front, bordering State Rte. 364. Mr. Troost did not have a problem with it as long as it stays out of the State Rte. 364 highway boundary. If the berm is placed along the front the NYS Department of Transportation would possibly take the reflector stakes out. As far as the sign Mr. Troost did not have a problem with it as long as it is out of the highway right of way and it meets town requirements.

Mr. St. George stated that the outside lighting is not on the plan, but off from each corner of the new building facing out onto the lot there will be two halogen wall packs with prismatic lenses. They will not be left on overnight.

The hours of operation will be from 7AM to 8PM Sunday through Thursday, 7AM to 9PM Friday through Saturday. During the summer when they start selling ice cream, the hours will expand until 9PM every night.

Chairman Harvey stated that the only concern he has with the exterior wall light packs is that he does not want them shinning out into the road. They need to be a fixture that shines down onto the parking area instead of prismatic, which is broadcast.

Mr. St. George stated that he would like to talk about the parking. "The most optimal way from a business prospective for us is not to have these on the end but to have people pulling up to the building."

Mr. St. George also explained to the board how the delivery trucks use the present parking area for their deliveries.

The parking area was discussed at length. It was decided that a professional engineer needs to design a parking plan that will work for deliveries and for customer parking.

The sign was discussed. It was decided that an LED sign is not a flashing sign under the Town's definitions and would be allowed.

Mr. McCadden made a motion to approve the site plan with the following conditions: 1. A new site plan be designed addressing the parking and brought to the July 27, 2009, Planning Board meeting, making sure that the turning radii are correct for the trucks to get in and out, and the turning around works with the required amount of parking spaces needed per the code. 2. Show the sign location on the site plan. 3. Show the lights location on the plan and verify that they shine only on the parking lot. 4. A Temporary Certificate of Occupancy may be issued for the new construction, with the understanding that all the above needs to be done within two months after the July Planning Board meeting. Mr. Hoover seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #08-2009, PFM Enterprises, LLC, owner of property on State Rte. 364, County Road 1 & Maiden Lane, request final subdivision approval on 32 lots.

Frank DiFelice & Mike Montalto were present and presented the subdivision to the board.

The elimination of the curb cuts off of State Rte. 364 for Treasure House Road and Wild Rose Lane, and the reorientation of the property that is left was discussed.

Gordon Freida, Code Enforcement Officer, presented a list of property owners who he has contacted about the closing of the curb cuts on Treasure House Road and Wild Rose Lanes. Most are in favor of the closing of the curb cuts; some have questions and one person was very upset. There will be no cost to the people involved. The developer is filing the map and doing all of the legal descriptions and doing everything necessary to make the transfers occur.

Chairman Harvey asked if there was anyone in the public that had and questions or concerns with the elimination of the curb cuts.

Reggie O'Hearn, representing Doreen Mastin, had several questions and concerns.

Mr. O'Hearn stated that they are looking at the 40 foot and accepting it as a private road. "Reduce it from 40 to 20 feet, take it right to the boundary lines of the subdivision coming in, and take it to the boundary line of O'Dell and bring it down where you have to connect with the other parcels, which leaves 20 foot of open grass area, so it will only be a 20 foot road. It is going to be private; the town is not going to handle it."

Chairman Harvey stated that the road is a private road now.

Mr. O'Hearn stated that his other proposal is "instead of an easement going thru the two parcels that was described, is a deeded right of way to the four property owners that are going to be connected to this road. The purpose of that is so one person or two people are not responsible, liable for any condition, and there is no homeowners association connected with it so by deeding it to the four property owners they all would own it, and have to maintain it."

Mr. O'Hearn asked if the road would be blacktop.

Mr. Montalto stated that it is a gravel road today and what they are proposing is a gravel road.

Mr. O'Hearn asked if a street sign would be installed at the developer's entrance.

Mr. Freida stated that that will be a 911 requirement.

Mr. O'Hearn stated going back to the gravel driveway. "This has got to accommodate emergency vehicles. So you just can't come in there and throw a little two inches of stone on top of what is there. So is there going to be some specs for that? Are they going to provide culvert pipes for any ditching?"

Chairman Harvey stated that they are just building the new portion of the road they will not be touching the existing private road.

Mr. O'Hearn stated that there is a lot of runoff coming down from the developer's property.

Mr. Montalto stated that with the storm water management facility there will be no more runoff.

Mr. O'Hearn stated that "there will be approximately a six foot berm there so there will be runoff from there, surface water coming thru the driveway. You are real close to this house to this property, so there is going to be runoff even though you have a retention area here. What I am looking at is to capture it here before it gets to the house here."

Mr. O'Hearn stated that "you have mentioned paying all costs. My question is are you going to pay costs for all of the changes including the official documents and amended deeds if there are any, filing updated surveys of the parcels, filing fees, attorney fees for our attorney to review all legal documents for approval."

The elimination of the curb cuts was discussed. It was initially proposed that the private roads owned by the developer would be split in half and 20 feet of land would be added to all property owners that adjoin the private roads. On Treasure Road a property owner refuses to talk with the developer so it is now being proposed that the property owners on the north side of Treasure House Road will get the whole 40 feet.

Mr. O'Hearn asked "would it be possible to get a preliminary new survey of what actually would be there when you arrive at what you're going to be doing. Only on that parcel for the road, so that we saw actually how much grass is going to be there and how the road is going to be built."

Mr. Montalto showed Mr. O'Hearn on the subdivision map and explained where the road is and where they will be building the new road and making the connection to the existing road. They will not be changing anything with the existing road.

Mr. O'Hearn asked that the existing road be moved to give more grass space.

The moving of the road was discussed. Moving the road over towards the south would eliminate grass area for the O'Dell's. If Mr. O'Hearn can convince Mr. O'Dell that this is a good idea the board has no problem with it.

Mr. O'Hearn expressed his concerns with the drainage coming off of the developer's property onto Ms. Mastin's property. He also expressed his concern with the runoff off of the 6 foot berm around the storm water pond.

The grading plan was reviewed and the drainage was discussed. The storm water management facility will capture all of the runoff from the uphill land.

Mr. O'Hearn expressed that he would like the road blacktopped.

Mr. Montalto stated that the starting point is what is there today is gravel, that is what they are providing.

Mr. O'Hearn stated that "I know what's there, and you just want to leave what's there and walk away and I know that the Town took this off. I understand, but again I'd like to see some benefit out of this."

Mr. Montalto stated that "there is a 40 foot piece of property that is there for access now. So the theory was to continue what was there."

Reducing the size of the roads from 40 feet was discussed.

Mr. Montalto stated that the 40 feet is ingress and egress and the ability to maintain that area for what is necessary. So if someone decides that they want to make an improvement there that betters the access and addresses a potential drainage issue, they have the ability to do that.

Chairman Harvey stated that he believes that it accomplishes everything that Mr. O'Hearn wants. "You can plant trees, mow lawn and do what ever you want."

Chairman Harvey suggested that the land that is part of the bank that is part of the drainage facility be given to the Town and part of the Town's parcel. Part of the drainage improvement should not be on private property.

The water district extension was discussed. Every thing for the water district extension has been submitted to New York State Department of Health. Sheryl Robbins at the Department of Health is reviewing the plans for the water extension.

The configuration of the parking area for the open space, which will be dedicated to the Town, has been added to the plan. The configuration could change at time of dedication to the Town.

A foot path will be constructed through the subdivision. The foot path will be constructed with 4" of bark 5' wide, with geotextile fabric underneath. The foot path will not be a separately owned parcel. It will be created by access easements granted to the town through the properties.

All the petitions have been turned in for the special districts, such as lighting, drainage, water, etc. The developers engineering firm and/or the Town's engineering firm will work in conjunction with the town to establish all of the districts.

Mr. McCadden asked the developer when they thought they would start the project.

Mr. DeFelice stated that he was hoping to start this fall.

All the districts will need to be formed before the starting of the project.

The amount of soil being disturbed at a time was discussed. At present the developer has a SPEDES permit to not disturb more than 5 acres at a time. At this time they have not filed for a 5 acre wavier. If the developer finds that they need to disturb more than 5 acres at a time a 5 acre wavier request will be made and a plan will be submitted to New York State Department of Environmental Conservation that meets the Department of Environmental Conservation requirements. It is important that the storm water detention facility be in and stabilized before the earth is moved uphill.

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

Michelle Cutri-Bynoe had a question on the erosion control.

Chairman Harvey stated that all the plans are stamped with a note that no more than 5 acres can be disturbed at one time, prior to stabilization.

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

The road signage for the private drives was discussed. If the state is willing to give up the signs for Treasure House and Wild Rose, they could be relocated during construction to the new proposed access. It was suggested that a sign also be erected stating that they are private drives.

Chairman Harvey stated that the property owners on Treasure House and Wild Rose are going to end up maintaining a longer road. "I am not looking for you guys to come in and pave these roads. I am thinking that it is probably fair, so that down the road, especially because there going to be plowed, we should make sure that there's not a lot of maintenance that ends up being done on those roads. I'd be very much in favor of oil and stoning or even blacktopping the extensions, not the whole road."

The conveyance of the private roads was discussed. One map will be filed with the County Clerks Office and from the map the deeds will be referenced. The deeds will be quit claim deeds. Surveys will not be done on each individual property.

Chairman Harvey offered a resolution [attached hereto] to approve the final subdivision of Section I of the Montebella Estates Subdivision comprising of 32 lots with the following conditions:

1. The developer is limited to disturbing an area of no more than 5 acres at one time, and all areas must be stabilized before any additional area(s) are disturbed.

2. The new sections of the private drives have a gravel base and shall be paved with asphalt, meeting the approval of the town engineer. Specifications for said driveway cross section shall be provided to the town for review and approval prior to any construction.

3. The developer shall provide street signs at the intersection of the private drives on the new public roads in the subdivision using the existing street names of said private drives. The town will accept relocation of the existing signs for these private roads which are located on State Rt. 364 if the New York State Department of Transportation grants its permission, otherwise the developer shall add a sign saying '**PRIVATE DRIVE**' under each road name sign on such private roads. The developer shall be solely responsible for the cost of acquisition and/or relocation, and the permanent erection of such signs, which shall be erected immediately prior to the removal of the curb cuts of these private roads on State Rt. 364.

4. The developer shall provide a separate subdivision map showing the various small pieces of property that do not constitute new building lots which shall be conveyed to adjoining property owners. New deeds including descriptions shall also be provided by the developer for each conveyance at the developer's sole expense. The developer shall submit a copy of the conveyance instrument to the town for review by the town attorney. Upon approval of the town attorney, the developer shall draft all deed conveyances and present these along with a copy of the subdivision map to each affected property owner. Upon approval of the affected property owners, the developer shall record said deeds in the office of the County Clerk, and all filing fees shall be paid by the developer. Individual property owners shall have the option of having

the deed instruments reviewed and approved by their own attorney(s) at their own expense.

5. This final subdivision is subject to New York State Department of Health and the Town of Gorham final approval of a water district extension. All costs related to the submission, review, and approval of said water district extension shall be the sole responsibility of the developer.

6. This final subdivision approval is subject to the formation of a town lighting district, and a town drainage district. All costs related to the submission, review, and approval of said town lighting district and said town drainage district shall be the sole responsibility of the developer.

7. The easement to be granted to the Town in regard to the bark trail shall be provided for review and approval of the Town Attorney and Town board prior to the chairman of the planning board signing the final plat. Said easement shall include a metes and bounds description, grant the public the right for non motorized egress, include the town's rights to maintain said bark trail which lies on private property, and be of such form and contents as acceptable to the Town Attorney and Town Board.

8. Lot 18 shall be labeled on the plan as the only new numbered lot on said subdivision plat that by deed is granted the use of the right of way running from Deep Run Cove to Canandaigua Lake.

9. The final subdivision approval is contingent upon the approval of any sanitary sewer district extension and the design of the sanitary sewer system by the County of Ontario and the New York Department of Environmental Conservation.

Mr. Frankish seconded the resolution, which carried unanimously.

The meeting was adjourned at 10:17PM.

Thomas P. Harvey, Chairman

Sue Yarger, Secretary