

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
June 25, 2018

PRESENT: Chairman Harvey            Mrs. Rasmussen  
          Mr. Farmer                    Mrs. Harris  
          Mr. Dailey                    Mr. Zimmerman  
          Mr. Hoover

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Zimmerman made a motion to approve the May 21, 2018, minutes as presented. Mr. Dailey seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #20-2018, Brian Mastrasimone, owner of property at 3792 State Rt. 247, requests site plan approval for a brewery and farm market.

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

Brian Mastrasimone and Glenn Thornton, Engineer was present and presented the application to the board.

Mr. Thornton stated that they have tried to address all of the comments that they have received at the last Planning Board meeting. The revised plan has addressed those comments to the best of their ability. Most of the changes were minor. They added some buffering, providing more detail for the future farm brewery, parking spaces, and storm water detention for that facility in the future. They also provided a full environmental assessment form.

Chairman Harvey stated that he would like to go over the items presented in the letter dated June 15, 2018, that was presented to the Zoning Office with the revised site plan.

Chairman Harvey asked if there were a number of spaces required for handicap accessibility.

There are 4 handicap spaces shown on the plan for Phase I and two future spaces for Phase II.

Mr. Thornton stated that the number of spaces proposed are compliant with the ADA requirements for this size lot.

Chairman Harvey asked Mr. Thornton to describe to the board the storm water and the sheet flow.

Mr. Thornton stated that the intent of the grading plan is just to maintain the sheet runoff. They are not channelizing flows into drainage swales that would require

treatment downstream to prevent erosion. So they are trying to maintain sheet drainage flows down into the farm fields and into the hop area and just let everything infiltrate into the ground. A lot of the storm water is draining over into the pond. The only channelized runoff that they have is a diversion swale around the wastewater treatment field area, which will pick up minimal runoff.

Chairman Harvey asked if he could provide a calculation for the hard surfaces, the changing surfaces that documents the infiltration rate. The Town of Gorham requires that there is no increase in discharge from the site after construction.

Mrs. Rasmussen asked where the stage location is for the events.

Mr. Mastrosimone pointed out the area on the site plan.

Chairman Harvey asked if the stage was portable.

Mr. Mastrosimone stated that the stage is portable.

Chairman Harvey stated that the location of the stage should be shown on the site plan for the public's understanding.

Chairman Harvey asked Mr. Thornton if he could expand on his response to the OCSWCD on the wastewater treatment system.

Mr. Thornton stated George Barden, Canandaigua Lake Water Shed Inspector, didn't agree with the wastewater treatment system. They have expanded the system quite a bit. The system is subject to DEC review and approval. It will be subject to a spedes permit because it is over 1000 gallons per day discharge on peak days. Most days it will be zero. On a peak day it could be as much as 2000 gallons per day.

The parcel was found not to be in the County Agricultural District.

Chairman Harvey asked Mr. Mastrosimone if the property was going to be used for the processing, distillation, brewing and fermentation activity and the on farm buildings and equipment which are needed to produce, store, distill, brew and/or ferment grains, grapes or other fruits, to the extent that the beverage is prepared predominantly from grain, hops, grapes or other fruits grown on the farm.

Mr. Mastrosimone stated that they are growing hops and are going to have malt in the gardens. It is impossible to get enough grain on 75 acres, but the main ingredients is hops and malts which they are growing on site.

The board reviewed part 1 of the Full Environmental Assessment Form with the applicant. The applicant

completed and amended part 1 of the environmental assessment form and signed and dated the form.

Mr. Dailey stated that at last meeting they talked a little bit about noise. It wasn't clear what they are going to do about the noise that comes from the site to make sure the neighbors were not adversely affected by it.

Mr. Mastrasimone stated that he went up to the road (State Rt. 247) when they were having a concert and he could not hear the music at the road. He made a video of it. On the video there are cars going by which is louder than any music from the site. He does not believe music is going to be an issue. He plans on closing down all music at 10:00PM.

Mr. Dailey asked Mr. Freida what the town code provides for the neighbors.

Mr. Freida stated that if someone complains before and after 11:00PM they have to call the sheriff. The Ontario County Sheriff's Office enforces the noise local law.

Mr. Dailey asked if they could set a decibel level. And what would a reasonable decibel level be and how would they go about that?

Mr. Mastrasimone stated that he is 1500 feet from the closes neighbor. They have put in shrubs and other things to deflect the noise.

Mr. Freida stated that in the noise local law they did not come up with a decibel level.

Chairman Harvey stated the reason they did not put in a decibel level is because we don't have a sound pressure meter and no one trained and qualified to use it.

Chairman Harvey stated that the information on the Full Environmental Assessment Form was very useful for the board but in looking in the SEQR workbook there is nothing in the workbook that triggers this application as a Type I action.

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

Fred Lightfoote, Town Supervisor, asked if they were going to malt the grain at the location. Are you going to be buying the grain bringing it in and malting it on site?

Mr. Mastrasimone stated yes, and they are trying to get FLCC involved. They are going for grants and trying to do a community reach to FLCC to help them with that procedure.

Mr. Lightfoote stated that he would like to suggest as far as any of your spent grain goes you should have no problem getting rid of that to neighboring farmers.

The Planning Board discussed and completed Part 2 of the Full 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 Full Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the board 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. Zimmerman seconded the motion, which carried unanimously.

Chairman Harvey closed the public hearing at this time.

Chairman Harvey stated that this project is an unlisted action under SEQR and a full environmental assessment form was not required but appreciated.

Chairman Harvey stated that the SEQR form showed that they plan on having 40 to 50 events and asked the board if they were comfortable with this number. "Day time, night time, weekdays, not weekdays, time of year, the application called for warm summer days through the fall."

Mr. Dailey stated that what he is concerned about is they are going to develop some venues on their own. He thinks weddings and those types of things are great, but when they develop venues on their own he wonders if they will get the same cliental.

Mr. Mastrasimone stated that they are family oriental venues. They also hire security. He does not foresee any major issues. They don't have huge bands come in. It is all local entertainment. The code is 1 crowd manager for every 250 people. They hire 1 crowd manager for every 100 people. Most of the people that come to the events are coming with kids. There is a volley ball net. There is ring tossing. There are hula hoops for kids. It is not a crazy venue.

Gordon Freida, Code Enforcement Officer stated that according to section 403.12.2 of the ICC Fire Code a fire safety plan will need to be submitted to the town. Also, a permit must be issued for all tents that are erected.

Mr. Farmer asked if there is going to be port a potty's on site.

Mr. Mastrasimone stated that they have a trailer with 10 units there now and they are indicated on the site plan. They would like to build their own bathrooms in the area

where there are now the 10 portable units. They are emptied and serviced every week.

Mr. Farmer asked about the lights, if they would be lit up all the time.

Mr. Mastrasimone stated that the lights will not be lit up all the time, just when there is an event. The bands will stop at 10:00PM and they will close at 11:00PM. This gives people an hour to leave the site.

Noise coming from the site was discussed. It was decided that the board would like to review the operation after this season and prior to the next season.

Mr. Mastrasimone stated that most music venues will be during the weekend. There may be a music venue during the days on weekdays, but no music venue at night during the weekdays. He stated that he has done everything possible to make sure neighbors can't hear the noise coming from the venue. He does not want to limit himself from having a venue.

Mrs. Rasmussen made a motion granting site plan approval for Phase I of the project with the following conditions: 1. Provide storm water calculations to verify no change in discharge from post development to pre development from the site. 2. Show the location of the stage area. 3. One crowd manager will be provided for every 100 attendees. 4. File a fire safety evacuation plan with the town, compliant with section 403.12.2 & 404.1 of the ICC Fire Code. 5. Phase II of the project will require site plan approval. 6. Lights will be shut off a 12:00AM. 7. The operation will be reviewed by the Planning Board prior to next season in March 2019 or before. Mr. Hoover seconded the motion, which carried unanimously.

#### MISCELLANEOUS:

Fred Lightfoote, Town of Gorham Supervisor, introduced Brett Johnson to the Planning Board.

Mr. Johnson stated that he is now the Chairman of the Conservation Board. They are studying the open space index at this time and are going to go to some of the Town's desires that are written into it. He hopes to give the Planning Board a great advisory board.

Mr. Dailey stated that he has talked with Chairman Harvey about some concerns that he has with how the board operates. The following concerns were discussed.

1. When should a member of the board recuse themselves from participating on an application? What can that person say once he/she has recused themselves?

Chairman Harvey asked Mr. Lightfoote if there was an existing Town Ethics Policy.

Mr. Lightfoote stated that not that he recalls or could find. So this would fall back on what the State currently has on this.

Chairman Harvey stated that there are varying opinions out there on this subject. He has always operated under the guidance that if you have direct business relationship, a familiar relationship, your directly impacted by project, it is the property next door you need to recuse yourself. Recusal means that you either leave the room, you at least get up and you leave the board and set with the public. The question is are you allowed to comment or are you not allowed to comment. He has always operated under the rule that when you recuse yourself you are prohibited from participating and discussing the application.

Mr. Lightfoote stated that he has discussed this with the Town Attorney along with a few other things. The Attorney is going to get the answers down on paper and then a date will be set to have the Attorney come set with all the Town Boards to review legalities and procedures.

2. It seems that Gordon Freida, Code Enforcement Office has a heavy workload and might need a deputy Code Enforcement Office. The may ease the transition as Gordy is getting ready to retire February 2019.

Mr. Lightfoote stated that he has had this conversation with Gordy over the years. Some of the things that have added to his workload is something that another staff member is supposed to be doing so Gordy will be training this staff member to do this job. Gordy also takes care of most of the maintenance of the buildings in the town.

Mr. Freida stated that he and Fred have talked and hope to have someone hired by November or December so that he has time to train him/her before he leaves in February.

Mr. Dailey stated that there still may be a need for a part time deputy in the future.

3. He struggles with the Engineer's calculations and wonders if we don't need more expertise on the board independent, such as the Town Engineer being at the

meetings at times to look at calculations and verify calculations.

Mr. Lightfoote stated that when there is something major, such as a major subdivision they do tend to consult and independent engineer.

Chairman Harvey stated that he would like to set down with an engineer hired by the town and tweak the town code requirements and make them a little clearer. And once our code is a little clearer he wants the applicants engineer responsible for the calculations.

Mr. Lightfoote stated that he would also like the Town's design construction standards reviewed.

4. Does the town need to start taking a stand on AIRBNB's and rentals along the lake?

Mr. Lightfoote stated that the town is going to start working on updating the Town Comprehensive Plan. This will probably be discussed during updating the Comprehensive Plan.

5. Modification to site plans after the Planning Board has approved the site plan. At times things change in the field. Should this come back to the Planning Board for their review?

Mr. Lightfoote stated that it depends on what the change is. There are certain things that the Code Enforcement Officer has the authority to deal with.

6. Enforcement of the design guidelines was discussed.

Mr. Dailey stated that they always mention the design guidelines but it seems that the people are not adhering to the design guidelines. Does there need to be a little more teeth with this?

Mr. Freida stated then the Town needs to make them a local law. They are just guidelines.

Chairman Harvey stated that both the zoning code and the subdivision regulations require compliance with the design guidelines for site plan approval and subdivision approval, unless the Planning Board waives this.

Mr. Dailey stated that there have been times where more trees and brush have been removed than what was specified on the site plan and the colors of the building are grays, which he does not believe is one of the colors the they say is lake friendly.

Mr. Lightfoote stated that he believes that when they worked on the design guidelines they intentionally stayed away from picking colors.

Mr. Dailey stated that he thought there was something in the guidelines about using lake friendly colors.

Chairman Harvey stated that maybe in the site plan or subdivision application form they add a question asking if the applicant has reviewed the design guidelines and does it conform to the guidelines and if not why not.

7. Mr. Dailey questioned the size of plans that are given for the board to review. It is very hard to read the site plan on a letter or legal size paper. He also had a concern that the board is not getting the information on a timely basis. It is hard to give it due consideration when they get to the board late.

Chairman Harvey stated that the State law says that things have to be on file for public review at least 5 days before the meeting. If the town wants to put a longer time frame in place the Town Board can do this. Should we start requiring all of the materials to be filed electronically?

Mr. Zimmerman stated that he has seen examples that from a professional standpoint if he submitted them to any Code Enforcement Authority they wouldn't get past the door. We have had them on this table, drawings not to scale.

Chairman Harvey stated that one of the reasons for requiring digital submission is they can show it on the screen so that the public can see what is going on.

Mrs. Rasmussen stated that she had a question. "When is Mr. Proctor coming in?"

Mr. Freida state that as soon as he gets an engineer drawing from Brennan Marks.

Mr. Lightfoote asked how long he has been waiting for the drawing and asked Mr. Freida to remind him to give Mr. Proctor a call in the morning.

Mr. Zimmerman made a motion to adjourn the meeting at 10:24PM. Mrs. Harris seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary