

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
October 22, 2018

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

Chairman Harvey called the meeting to order at 7:30 PM. Mrs. Rasmussen made a motion to approve the September 24, 2018, minutes. Mr. Zimmerman seconded the motion. After a brief discussion the minutes were amended as follows: Page 6 first sentence should read: Chairman Harvey stated that whatever development happens on the proposed property you don't want it to make your client's situation worse. Chairman Harvey made a motion to approve the amended September 24, 2018, minutes. Mr. Hoover seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #35-2017, Michael G. & Kimberly M. Kurr, owners of property at 3981 State Rt. 364, requests subdivision approval to subdivide parcel into two lots.

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

Greg Kurr was present and presented the application to the board.

On December 21, 2017, the Zoning Board of Appeals made a motion to grant a 2.18 foot variance for road frontage of 97.82 feet on lot 2 according to the map by Freeleand-Parrinello dated October 2, 2017.

Chairman Harvey explained that the town has an Access Management Local Law and to split the parcel into two lots and meet the Access management Local Law there will need to be a shared driveway.

Mr. Kurr stated that he talked to the State of New York and they said it could be 5 feet off the north property line. "I understand that the town regulations over rule the States."

Chairman Harvey reaffirmed that the town regulations over rule the States.

Chairman Harvey adjourned the public hearing to complete the Short Environmental Assessment Form.

A letter dated September 5, 2018, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on

archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Hoover seconded the motion, which carried unanimously.

Chairman Harvey re-opened that public hearing at this time.

Chairman Harvey asked if lot 2 was going to be offered for sale.

Mr. Kurr stated that it was going to be offered for sale.

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

Mr. Zimmerman offered a resolution [attached hereto] to approve the subdivision with the following conditions: 1. Show the shared access on the subdivision map. 2. Future construction is subject to site plan review by the Town of Gorham Planning Board. Mr. Hoover seconded the resolution, which carried unanimously.

Application #27-2018, Michael Spaan, owner of property at 4458 Lake Drive, requests site plan approval to demolish existing home and build a single family home.

Chairman Harvey re-opened the public hearing on the above application and explained that the applicant asked for a delay in approvals to modify his plans and at this time no new plans have been filed with the town.

Chairman Harvey asked if there were any comments from the public on this application. Hearing none, the public hearing was closed and the application was declared incomplete. Any new development on the parcel will require a new application.

Application #32-2018, LeTourneau Christian Center INC, owner of property at 4961 County Road 11, requests site plan approval to build a single family home.

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

Bob Anderson, Project Manager and Brian Heminger, Marks Engineering was present and presented the plan to the board.

Mr. Anderson stated that they would like to build a single story ranch home.

Mr. Anderson stated that they are going to move the home to the south but will maintain the required setback of 15 feet.

Mr. Heminger stated that they plan on using the existing driveway. They are going to lengthen the driveway and have extra parking in the back.

Chairman Harvey asked if there would be extra pavement for the driveway.

Mr. Heminger stated that it would be gravel.

Chairman Harvey stated that it would still be packed gravel which is not designed to be porous. It will be mostly impervious.

Mr. Heminger stated that there is a swale in the back that will take the drainage coming off the back of the parcel along with keeping positive drainage away from the building. There is a rip rap lined channel to slow the water down as much as possible.

Drainage calculations from the engineer was presented to the board and will be kept in the file.

Mr. Heminger stated that they are planning on putting in some check dams to hold the water back, which was not put into the drainage calculations that were presented.

Chairman Harvey stated that "while the channels may be sufficient to convey it to the road side ditch your obligation is to at least meet the requirements of the 10 year storm in terms of any additional runoff because of the hard surfaces you have to capture and deal with on site not discharge from the site."

Chairman Harvey stated that there needs to be shown on the plan some grading around the temporary stock pile area to divert the water flow around that.

Chairman Harvey asked if they had any elevations on home. "Is it going to be a stick built house?"

Mr. Anderson stated that the home will be stick built on an ICF basement with a walkout. One story ranch with 6 in 12 trusses.

Mr. Dailey had a question on the rain event. "Last month we had one where we required a 25 year and here we're saying 10 so I am wondering if we have an inconsistency."

Chairman Harvey explained that the Town Supervisor, Code Enforcement Officer and him met a couple of times and went over the Town's Design Standards to clarify and understand what they meant. The Town Board is going to take another look at what those requirements are but right now what is required is a 10

year design storm event. The applicants need to take a look at and analyze the 25 year storm event and its impact. For a piece of property this size the standards require the rational method to calculate the difference in storm water flows. If you combined that with the site plan requirements it means that is the amount of water that they have to show that they have infiltration or some other mitigation so that it is not discharged from the site. The town standard is that the run off has to be treated for water quality as well.

Chairman Harvey stated that on this site the drainage has to meet the 10 year design storm. The 25 year storm event must be looked at to see if it is practical and reasonable. In his opinion the swales and the other drainage systems better handle the 25 year storm event. The board probably can't require them at this point to mitigate anything more than the 10 year storm but the infrastructure better support the 25 year storm event.

Chairman Harvey asked what is driving the need for the home construction.

Mr. Anderson stated that the new home is for the director who has 5 kids. Where he lives now, which is on site really is not adequate.

Chairman Harvey asked what was going to happen to the home the director is now in.

Mr. Anderson stated that they always have a need for staff housing.

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

A letter dated October 22, 2018, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Zimmerman seconded the motion, which carried unanimously.

Mr. Hoover made a motion to approve the site plan with the following conditions: 1. The storm water calculations need to

be revised to account for the additional runoff so that there is no more discharge after development than prior development at least for a 10 year storm event. Also provide a calculation for the 25 year storm event. 2. Add a note to the plan that shows that the surface storm water flow will be diverted around the temporary stock pile area. Mr. Dailey seconded the motion, which carried unanimously.

MISCELLANEOUS:

Application #29-2018, Charles Graham, owner of property at 4979 County Rd 11, requests site plan approval to build a 3796 square foot pole barn.

The public hearing was held on September 24, 2018, and was closed.

Brian Sorochty, DDS Companies & Charles Graham were present and presented the application to the board.

Mr. Sorochty explained that Bill Grove the engineer that has been working on this project could not be here tonight and so he was asked to fill in. He stated that Bill Grove did submit to the town on October 16, 2018 drainage calculations that mitigate the 10 year storm event as well as the sizing of the swale on the north side of the building that mitigates the 25 year storm.

Mr. Sorochty presented a revised site plan to the board that shows the grading going all the way to the road.

Chairman Harvey asked Mr. Sorochty to explain the calculations on the 10 year storm and the 25 year storm.

Mr. Sorochty stated that the channel that is on the north side of the pole barn adequately handles the 25 year storm event. The 10 year storm event, which is the primary design consideration, the drainage from the impervious surfaces are being handled by three 1000 gallon leaching chambers.

Chairman Harvey asked if they were sufficient to handle the 25 year storm.

Mr. Sorochty stated that he believes they are. There is an over flow in them to handle anything so that nothing leaches through the soils.

Chairman Harvey explained that this is not a public hearing but asked if anyone in the public had a comment.

Greg McMahon, with McMahon LaRue Engineers representing the Voloshin's a neighbor directly across County Road 11, stated that they did get the revised calculations for the 10 year storm. He calculated the 25 year storm himself and confirmed what is being reported. There main question is was the dry well design based on 5400 square feet of impervious surface being drained to the drywells.

Chairman Harvey stated that that is a great point and will ask the engineer to indicate that on a base map what's draining to the drywells to insure that the performance is there.

Mr. Sorochty stated that the calculations done by the engineer do indicate 5404 square foot that was analyzed.

Chairman Harvey stated that one issue that was brought up at the last meeting was the landscaping.

Mr. Graham presented a rendering of the landscaping to the board.

Bob Brancato asked the board if there has been some rule changes in the last year and a half in regard to the drainage. "Because there is a pole barn that went up just south of our house it was 32 x 64 and there was no catchment of water coming off that property other than going straight down onto the road and into the lake. I'm just wondering why this location is having to do this and that one year and a half ago, in fact I think it was April 3<sup>rd</sup> of 2017, you approved that development of that place and there was no indication of any kind of drainage other than one white pipe going across the front of the building."

Chairman Harvey stated that he does not remember the particulars of that application. He explained that the Town's regulations are multitiered. For many years have had storm water mitigation language in both the site plan portions of the zoning and subdivision regulations. What was recently discovered was that the town back in 2008 adopted some design standards so now people are being held to what's on the books now in terms of the 10 year design storm. It doesn't mean they didn't look at storm water previously. He suggested that he have Gordy go back through the minutes and look at the application that was before this board and he is sure this board did do something about the storm water.

Mr. Brancato stated that he read those minutes and there is nothing about storm water. It's unfortunate because water is still flowing off that property that was wooded and very similar to this property without buildings on it and this was added to it and the lake is still paying for it at this point.

Mr. Dailey asked if they had a rendering of what the building was going to look like.

Mr. Graham presented the board with a rendering of the building.

Mr. Dailey asked for a clarification of an accessory structure. "In looking in our code the definition is a use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. So I guess help me out with that."

Chairman Harvey stated that they discussed this last time. He asked Gordy his position on this.

Mr. Freida stated that you can classify it as a principal structure. So it's the principal building on the parcel.

Chairman Harvey stated that will change the setback requirement.

Mr. Freida stated that however it is an accessory. He could build a house there eventually up hill.

Chairman Harvey asked so as an accessory building he's got enough room to put a principal structure and meet the setback requirements or will he require a variance.

Mr. Freida stated that he is at 15% coverage now. He could put a house up behind the pole barn if he so chooses.

Mr. Dailey stated that is not what the zoning code seems to provide though. "Subordinate to, I don't see any plans for a home."

Mr. Freida stated "ok he has enough room to move it 3.9 feet off the north property line and then you can classify it as a principal building."

Chairman Harvey stated that would be the one impact as classifying it as a principal structure.

Mr. Freida stated that he is not saying that's the one impact. "I'm just saying if Mr. Dailey's considering it a principal all they have to do is move it 3.9 feet off the north property line, which it becomes the principal. Meeting the principal building setbacks."

Chairman Harvey stated that making that finding makes a 3.9 foot difference in where the building is located.

Mr. Freida stated that that can be done at the time of surveying for the building to be placed. "However we allow accessory buildings prior to a principal residence."

Chairman Harvey stated correct.

Mr. Dailey stated that he toured up and down County Road 11 and he thinks he saw one. "Some farm houses but I didn't see anything recent."

Chairman Harvey stated that what Gordy is saying is that the zoning code allows building an accessory structure prior to the principal structure.

Mr. Dailey asked if this was going to become a principle structure.

Chairman Harvey stated that it is an accessory building and what that means to the applicant is that there is not going to be water and sewer run into the building. "It's not going to become a house without further review."

Mr. Dailey stated "but the code says subordinate to the principal so isn't that conflicting language."

Chairman Harvey stated "no. Because it's clearly not the principal use. The guy just happens to own two lots and he's got an accessory use on this lot. Which again our code allows and it allows it to be considered an accessory use."

A letter dated October 22, 2018, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mrs. Harris seconded the motion, which carried unanimously.

Mr. Hoover made a motion to approve the site plan with the following conditions: 1. The pole barn is to be moved 3.9 feet to 15' from the north property line making it in compliance with the setback for a principal structure. 2. Mark on a blank plan confirming the areas that drain to the leaching chambers is commensurate with the amount of water that is being produced by the impervious surfaces so that the board is fully assured that the storm water infrastructure meets the town's requirements. 3. The landscaping plan that was presented to the board be submitted to be on file in the Town Zoning Office and no Certificate of Compliance is to be issued till the landscaping is completed. 4. Exterior lighting is to be dark sky compliant. Mrs. Rasmussen seconded the motion, which carried unanimously.

Mrs. Rasmussen stated that on behalf of the board I want to thank Mr. Graham for giving them all the information that they asked for.

Application #30-2018, Oswald Vazquez & Susan Shuryn, owner of property at 4586 Wild Rose Lane, requests site plan approval to build a single family home.

The public hearing was held on September 24, 2018, and was closed.

Heather St. Croix was present and presented the application to the board.

Drainage calculations for a 10 year storm event were presented to the board.

A letter dated October 3, 2018, was received from New York Office of Parks, Recreation and Historic Preservation on this application, stating that there is no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

The Planning Board discussed and completed Part 2 of the Short Environmental Assessment Form. The board determined this to be an unlisted action under SEQOR that will not receive coordinated review since no other discretionary agency approval is required.

Mrs. Rasmussen made a motion to approve the Short Environmental Assessment Form, part 1 as completed by the applicant and part 2 as completed by the Chairman making a "negative determination of significance" stating that the proposed action will not result in any significant, adverse, negative environmental impacts as the board did not find a single potentially large impact related to this project. Mr. Zimmerman seconded the motion, which carried unanimously.

Mr. Hoover made a motion to approve the site plan with the following conditions: 1. Make a minor adjustment to the contours showing positive drainage around the new home. Mr. Dailey seconded the motion, which carried unanimously.

Tim Tyskicwicz, Architect, Chris Luley, Arborist were present representing Edward & Molly Shill at 4380 Lincolnwood to discuss the placement of a 6 foot construction fence.

Mr. Tyskicwicz stated that the Shills are building a home on Lincolnwood and would like to do so without damaging any of the healthy mature trees on the property. The trees are close to where the house is going to be built. A plan was presented to the board with a red line indicating the placement of the fence. They hired a professional arborist to come up with a tree protection plan. They have a construction area where all the trucks are going to be making deliveries. They are trying not to drive on the roots of the trees or hit the bark of the trees.

Mr. Luley stated that he is the consulting arborist that was hired to come up with a tree preservation plan. He presented the board with this plan. A 6 foot fence is standard for tree preservation during construction. He had inventoried every tree on site and GPS'd them. He documented what maintenance needs to be done. Every tree has been tagged. They have removed all the evasive species and ground the stumps. They have mulched the entire area. The trees have been pruned. He tested some of the trees for decay and mapped the root systems. They have treated some of the big ash for emerald ash

borer. They treated the trees for two-lined chestnut borer, which attacks construction impacted oaks. They have done a lot of tree protection practices that need to be done before any construction starts. There is no way that the project can be done with all the different construction people without having a strong barrier to protect the trees.

Mr. Tyskicwicz stated that the construction will take about 16 months and the Shill's would like the construction fence up until the construction of the new home is completed.

The fence will be a chain link fence.

The discussion from last month as it was put in the minutes was read. "The construction fence at 4380 was discussed. It was decided that if it is just for the construction a time limit of 6 months from this date (9/24/18) be set and the fence is to go only in the area of the new construction. If the fence is not down within 6 months a bond must be posted for removal."

Mr. Tyskicwicz stated that they are going to start the project in March and they think it is going to take 16 months.

Gordon Freida asked if the fence was needed around the house that has been remodeled.

Mr. Tyskicwicz stated that it is in the protected area. There is a small gate to walk through not to drive through.

Mr. Dailey stated that he would like to move to the other side of the table and he would like to have a chance to input.

Chairman Harvey asked Mr. Dailey if he was a neighbor to the Shills.

Mr. Dailey stated that he was a neighbor.

Mrs. Harris stated that she must recuse herself from the discussion and took a seat with the public.

Chairman Harvey asked Mr. Dailey if he had somebodys ear that he could talk to.

Mr. Dailey stated "no I'm going to talk with the board directly and I'm allowed to do that. If you want me to site some law I can do that as a non-lawyer."

Molly Shill stated doesn't recuse mean he can't be part of it.

Chairman Harvey stated that recusal means you recuse yourself from...

Mr. Dailey stated then "I will stay and I won't recuse myself and I'll stay for the discussion."

Edward Shill stated that for Mr. Dailey to have input in a powerful position is very inappropriate.

Chairman Harvey stated that he agreed.

Mr. Shill stated that they have a law suit with Mr. Dailey.

Mr. Dailey stated that they do not have a law suit they have a .....

Mr. Shill stated "we have a law suit pending Jack. Oh yes we do."

Mr. Dailey stated that "we have a disagreement on a boundary and an easement and right now there is no litigation that I'm aware of."

Chairman Harvey asked Fred Lightfoote, Town Supervisor who was seated with the public what he thought and if they needed to go in the back room. "We don't have any council to confer on. A recusal to me is a recusal."

Mr. Lightfoote stated that "recusal means to me step away with no input what so ever."

Mr. Dailey stated "then I won't recuse myself."

Mr. Lightfoote stated "Gabe if you got some business regarding this, yes you need to step away. Which means physically move from the table and set out here. Jack, so you have legal action going on of some kind?"

Mr. Shill stated that "Jack's attorney sent us a rebuttal to an easement study that we had done that we do not agree that Mr. Dailey has rights too. Mr. Dailey sent a legal letter back from his attorney and we're starting action against Jack at this point so to me it seems like his attorney is talking to ours we're talking to his. And we've got action going on. This has nothing to do with the trees. Matter of fact I would just like to say to the Planning Board that if it wasn't for my wife we probably would have clear cut that back lot. That's why we are three or four months back here. We had to tag. We hired Chris as an arborist."

Chairman Harvey read an opinion from the New York Law Journal dated March 23, 2016. He explained that this is not a quote from the law but it is a commentary from a very reliable source.

"Local governments typically have local residents making zoning decisions. This column explores when conflicts of interest might require their recusal. Local zoning officials and Planning Board members have an obligation to act ethically. As provided in article 18 of New York States General Municipal Law, New York Stated Penal Law, Section 195 Local Codes of Ethics, Courts decisions, opinions of the New York State Attorney General and New York State Comptroller and rules applicable to the professions such as rules of professional conduct for lawyers.

The obligation requires that they avoid conflicts of interest in the discharge of their official duties. In determining whether a conflict of interest exists the test to be applied is not whether there is a conflict but whether there might be. Conflicts of interest can arise where competing goals make it difficult for government officials to make the decisions

to protect the common good. Where conflicts of interest exist, board members should disclose conflicts and determine whether they can fairly make decisions on the issues before the board. Where the answer is no, board members should recuse themselves and not participate in discussions with other board members, vote on the issues, or otherwise influence the decision making process. The decision to recuse is solely within the discretion of individual board members."

Chairman Harvey stated "so officially lets understand first of all what's properly before the board. Do we have any condition on the site plan approval? This is just a construction detail? Reporting back to the board gee this is what we are doing and making sure there is no issue with the longevity of the fence being there?"

Mr. Freida stated "no, the fence was never on the plan and approved."

Chairman Harvey stated "well people put up construction fences all the time for projects that aren't shown on plans, just to protect their site."

Mr. Freida stated "right but it was brought to my attention that the 6 foot fence was going up when clearly we've had issues to the north."

Chairman Harvey stated "so the applicants have come in and explained their reason for the 6 foot fence. the reason for trying to protect their trees. They really don't need any approval by the board; again it's up to Code Enforcement to decide whether that complies with the laws or whether it's got to go somewhere else for an approval. And I don't think you have done that so as far as I'm concerned it is just a verbal report to the board."

Mr. Freida stated "so it is up to me?"

Chairman Harvey stated "yes, if somebody builds something you got to decide as a Code Enforcement Officer does it comply or does it not. And if it does than it's got no reason to be before a board and if it doesn't than you determine which board it goes to. If it's an appeal or a variance or there's some condition on the site plan or subdivision approval or special use permit that has to be modified or made or whatever. It's up to you. Understanding the facts that it's a construction fence and it's going to come down at the end of construction."

Mrs. Shill stated "we desperately want to save those trees."

Chairman Harvey stated "I don't know if you are prepared to make that determination, but as far as I'm concerned until you make that there's nothing properly in front of the board."

Mr. Hoover stated that it does look nice there with all the trees.

Mr. Shill stated "we've actually moved the footprint back. If you look on page 6 there you'll see a lot of the trees in front of the current house. We've actually moved the house back a little bit. We shrunk it actually so we could save three of the oak trees out front. I don't blame Jack. He's got to drive through there."

Mrs. Shill stated "it looks horrible."

Mr. Shill stated "our intent is to bring it down as soon as we can. We don't want to keep it up there. I appreciate the sensitivity of Jack on that. But we've already had damage to trees on our property before Chris and Tim got involved. Right on the driveway in front of our little barn there there's a tree that the dumpster backed into and took a big scar out of. So as soon as that happened we stopped construction. We are 3 or 4 months behind here because we wanted to fence off the trees."

Chairman Harvey stated "beautiful piece of property and I salute you for going to the extreme measures that you've gone. The Code Enforcement Officer I'm sure he's not going to give you a Certificate of Occupancy until everything is cleaned up at the end of the construction. As long as he's got construction going on I'm assuming he's entitled to a construction fence. Is everybody ok with that?"

Mr. Dailey stated "I'm not sure what you're saying Tom. You're saying what has been presented is acceptable?"

Chairman Harvey stated "construction fencing being on this site is not that far out of the ordinary. I'll give you that this is a lot of fence and he's going to a lot of extreme but we don't have any regulations that I'm aware of prohibiting it. And Gordy's not going to issue I mean typically on a construction site you correct me if I'm wrong until the temporary stuff is removed they don't get their C of O."

Mr. Freida stated "Right. And any time you approve a site plan and it's clearly in here; grading, seeding, and gutters everything's got to be complete. That's building code."

Mrs. Rasmussen stated "In the town Comprehensive Plan and in the Design Guidelines they're doing exactly what we've asked people to do. Which is save the trees."

Mr. Farmer stated "Just on a side note is there some way to mitigate what is here? Maybe it is simple. Maybe we're assuming it crazy or maybe he wants just a piece of fence. I don't know. I vote for protection of the trees. But maybe there's something in excess."

Mr. Shill stated "I agree whole heartily once the fence comes up as the construction goes maybe there's parts of that fence that can come down but I think the base case is got to be if there's a chance for one of those 200 year old oaks to get

hit, and they are in very sensitive areas the fence stays up until that can't happen."

Mr. Farmer stated "Well that's what I was just saying, maybe it's simple."

Mr. Shill stated "I understand that there's been construction fences that go up and don't come down. That is not our intent. If the deal is that Gordy doesn't give us the C of O until that thing comes down we are totally good with that. Because we don't want it up either."

Mrs. Shill stated "We don't want it up but we want to save the trees. And we hired Chris he's a PHD and it's his recommendation."

Mr. Farmer stated "I'm not trying to fight the fence believe me. I'm just saying maybe there's some way to mitigate his concerns. We never even heard his concern yet. Are you assuming that there is no fence all together?"

Mrs. Rasmussen stated "We can't hear his concerns."

Mr. Dailey stated "Not at all as a matter of fact the project coordinator was down when the fence went up and they said gee can we compromise as to what is going on here, and this a second parcel over here. It's probably clearer here you can see the parcels. And I asked gee does it have to go down all the way into the second parcel and the initial reaction was no. Yes, at least for right now. I will check with the Shill's. He checked with the Shill's and came back and there was no compromise. So at that point I called Gordy and said gee I think there's a fence going up that wasn't authorized plus the fence wasn't authorized for a 6 foot fence. This is a 6 foot fence and it's not very attractive to look at. We've been down there for 40 years and the Tambe's built a new house 15 years ago. There was all kinds of construction people down there. They built the wall. It was a million dollar wall. The construction people were there for 3 years. And the only trees we lost was some trees up in the back joining some property up in the back because cement was allowed to drift into the root system. As far as parking, I also offered, we jointly own some land why don't we allow the people to park during construction. That takes care of people coming down the lane and encumbering the property. But that seem to fall on deaf ears also. So we're very happy to try to accommodate the fence."

Mrs. Shill stated "Jack I never heard you say that."

Mr. Dailey stated "I talked with your project coordinator and he said he would...."

Mrs. Shill stated "Maybe you could talk to us. I feel like your influencing the board right now and that doesn't seem...."

Mr. Dailey stated "Well no, I have an equal right to talk."

Chairman Harvey stated "Jack on behalf of the rest of the board unless the majority of the board disagrees with me. Right now the town doesn't have any rules concerning construction and temporary fences. If you want to propose for the town to consider that in the future you certainly are welcome to do that but right now I'm not aware of any rule that we have that addresses the situation."

Mr. Farmer stated "Tom, something good came out of that. He said hey park your cars on my right of way...."

Chairman Harvey stated "That's not something in my opinion that is..."

Mr. Farmer stated "But it will help to save the trees."

Chairman Harvey stated "That's an issue between the land owners. They can go and work that out."

Mr. Farmer stated "It doesn't sound like they could before."

Mr. Shill stated "No, it's been difficult."

Chairman Harvey stated "Understood. And I'm not disagreeing it's a lot of fence and emergency vehicle access pops into mine and everything else but that's still something that maybe we take a look at. I'm sorry that you had to come in and deal with that without us having any rules that would make it clearer and easier for everybody."

Chairman Harvey asked Mr. Lightfoote, Town Supervisor if there was anything more he would like to add in the Town's Board perspective.

Mr. Lightfoote stated "No. I think you've pretty much hit it on the head. Gordy can investigate that."

Chairman Harvey stated "But still we've traditionally left that decision and jurisdiction up to Code Enforcement Officer. And if that isn't working than we will discuss something else."

Mr. Lightfoote stated "If there is any question once he looks into it we will do what we can. But as it is right now, I'm sorry Jack but that's all we've got really is to say Gordy take care it as per what your job requirements are and what regulations that relate to it."

Mr. Dailey stated "Let me ask you a question. At the previous board meeting we decided there was 6 month limit on the fence."

Chairman Harvey stated "Did we take a vote?"

Mrs. Rasmussen stated "No. We just talked about it."

Chairman Harvey stated "I offered an opinion not knowing the duration of construction."

Mr. Dailey stated "Should this been something for a public hearing?"

Chairman Harvey stated "No. Again I think the proper thing to do if you have a concern that there's something that gets allowed to happen on a construction or during if you think we ought to take a look at what our rules are for construction fencing because we're allowing something that disturbs people generally than let's take a look at the rules. I can't dispute it's a lot of fence and I understand the intent to protect the trees and everything else but, what are the rules? And again if we're going to propose new rules and it goes to the Town Board then that certainly all subject to a public hearing.

Mr. Farmer stated "Tom you mentioned emergency ingress, egress. It appears that this fence here stops it for them. I mean should you ever need emergency ingress you don't have any way for a fire truck to get down there."

Mr. Freida stated "The trees will block the firetrucks. There's trees on both sides of the road."

Chairman Harvey stated "I'm thinking more of how close you can get the firetruck. How much the location of the fence line disrupts the turning radius for emergency vehicles and things of that nature?"

Mr. Tyskiewicz stated "There's not a gate that closes off the construction site from a firetruck. A firetruck can pull straight in put a hose in the lake and put out the fire. Correct you are that there's not turning radius for them to turn around and get out but they can back out."

Mr. Dailey stated "I was going to say we'll just remind everybody that there needs to be a 20 foot access for emergency vehicles. So I would just ask you to adhere to that. I'm totally happy to compromise something with you guys."

Chairman Harvey stated "that's right. Yep."

Mr. Shill stated "Well Jack why don't we get together."

Mr. Dailey stated "If you want to get together I'm happy to do that....."

Mr. Shill stated "I would like that too."

Chairman Harvey asked if there was anything else before the board.

Mrs. Rasumssen stated "I would like to reiterate to Fred about the need for parking signs in the town lot and on South Street."

Mr. Lighfoote stated "I'll fill you in. That's been sitting on the Town Attorney's desk for between 4 and 5 months. I have recently once again been on the phone with his staff and that didn't make number one priority but he is doing the best he can to get caught up. It is on our radar and hopefully we'll get that taken care of."

Mrs. Rasmussen stated she thinks the Planning Board needs to look at the construction of pole barns and drainage more so than they do currently.

She questioned about a pole barn being proposed at the base of a hill on County Road 18. This may be one that should go to the Planning Board.

Mrs. Harris made a motion to adjourn the meeting at 9:14PM. Mrs. Rasmussen seconded the motion, which carried.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary