

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
November 25, 2019

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

Chairman Harvey called the meeting to order at 7:30 PM. Mrs. Rasmussen made a motion to approve the October 28, 2019, minutes. Mr. Zimmerman seconded the motion, which carried unanimously.

PUBLIC HEARING:

Application #17-2019, Richard Frere, owner of property at 3656 County Road 18, requests site plan approval to build a single family home.

Chairman Harvey re-opened the public hearing that was adjourned on October 28, 2019, and the notice as it appeared in the official newspaper of the town was read.

Brennon Marks, Marks Engineering was present and presented the application to the board.

Mr. Marks gave an overview of the site. The application is for a single family residence with an attached garage. The onsite septic system will be a standard system in the front lawn.

Mr. Marks went over several items that were a concern at the September meeting.

The County gave Mr. Frere a permit to improve the existing entrance, which was an agricultural entrance at the time he got a permit from the town for the barn structure. The County also approved the entrance for a new residence.

Chairman Harvey asked how the entrance matches up with the Town's Access Management Local Law.

Mr. Marks stated that he did look at the Town's Access Management Local Law and the County DPW has jurisdiction on County Roads. "However, we still meet the criteria of the Town's Access Management with the 440 feet separation for collector roads."

Chairman Harvey stated that where the driveway location is on the property across the road the proposed driveway does not meet the Town's Access Management local law.

The driveway curb cut location was discussed at length.

Mr. Marks discussed storm water and drainage. They have made a revision on the plan showing the storm leaders going to the rear from all of the downspouts on the building. There is a natural low area in the back of the site that will naturally pond and absorb the stormwater from the rear yard of the house and the roof leaders as they have it designed. The front yard will still go to the County Road.

Chairman Harvey stated that the Town's regulations don't allow dumping additional water in the roadside ditch. He will have to come up with infiltration somewhere else.

Mr. Marks stated that everything from the front of the house back goes to the rear yard. The septic system and existing entrance is going forward. Which is common in a residential subdivision.

Chairman Harvey stated that they would put in a stormwater system at their own expense. He is on a County Road and is expecting the County to accommodate additional flow. Whatever the calculation is put it somewhere and take care of it cause putting it in the roadside ditch is not allowed.

Mr. Marks stated that he has calculated cost estimates for driveway, septic system, erosion & sediment control and stormwater infrastructure, which was provided to the town. This will be kept in the file.

Mr. Marks presented a survey showing the dimensions of the property.

Mr. Marks stated that the appearance of the home will have horizontal siding, a masonry foundation and a 4 on 12 or greater pitched roof.

Chairman Harvey asked what the deep hole test showed.

Mr. Marks stated that 12" rooted topsoil, 12"-24" silty clay loam and 24"-48" clay loam.

Mr. Marks stated that they have an email from the watershed approving the septic system.

Mr. Marks stated that there is a letter from New York State Park, Recreation, and Historic Preservation dated August 28, 2019, stating that there are no properties, including archaeological and/or historic resources that will be impacted by this project.

Mr. Marks stated that it is their opinion that the driveway is in the best location for site entrance to the lot, because of the existing driveway and they have a permit from Ontario County for this location.

Chairman Harvey stated that is not reason enough to have the driveway in that location. How does it address highway safety and how does it address the Town's standards?

The driveway location was again discussed at length.

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

Fred Lightfoote, Town Supervisor asked Mr. Marks to pass on to Mr. Frere that if he plans on any development again to please come in ahead of time to save himself some misery. He just needs to come in and get it figured out before hand and then he won't have to change things.

Mr. Zimmerman asked where the grass lane on the survey goes.

Mr. Marks stated that it crosses over the northern line.

Mr. Zimmerman asked how big the new lawn area was going to be listed on the plan.

Mr. Marks stated that it will be limited to the disturbance area. To move the driveway, it would require another 110 foot of clearing.

Mrs. Rasmussen expressed that she feels the access management local law should be followed unless they have an adequate reason not to.

Mrs. Harris expressed her concern with cutting down a lot more trees and creating a lot more hardscape is not great for the environment. She would be against cutting down a lot of mature trees.

Mr. Dailey asked if they should require a performance bond or completion bond.

Chairman Harvey stated that that has been talked about and why they have the cost estimates.

Chairman Harvey stated that there needs to be some stormwater revision done on the site plan that has been discussed.

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

The driveway continued to be discussed.

Mr. Morse presented the board with the permit that was approved and granted to Mr. Frere for the existing frame barn with the driveway in the location that is proposed.

A letter dated August 28, 2019, 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 made a motion to issue a waiver from the Town of Gorham's Access Management Local Law as the location was accepted by Ontario County Public Works, the town recognizes its not ideal. The applicant has invested and relied on a permit legally issued by the Town of Gorham Code Enforcement Officer and made his improvements pursuant to trusting in that permit. Mr. Zimmerman seconded the motion.

Chairman Harvey said for the record that if the applicant hadn't relied on a previous permit there's no way on God's green earth, I'd vote for approving this driveway location. This is not going to establish a precedence for the town.

Mrs. Rasmussen stated that she thinks that it is shameful that he can slither through all this every time there is something that just goes against everything that they have on the books.

Mr. Zimmerman stated that he thinks that it is unfortunate that he doesn't appear on his own behalf.

Motion for the waiver was carried.

Mr. Dailey made a motion to approve the site plan with the following conditions: 1. A surety of \$8550.30 be posted. This can be cash, letter of credit or whatever form the Town Board approves prior to the issuance of a building permit. 2. Make a revision to the grading and drainage plan specifically to mitigate the runoff impact to County Road 18 roadside ditch. 3. There will be a full masonry foundation, horizontal vinyl siding and a 4 in 12 pitched roof or steeper. 4. All lighting will be dark sky compliant and cut sheets will be submitted to the Code Enforcement Officer prior to a final certificate of occupancy. Mr. Hoover seconded the motion, which carried unanimously.

Application #18-2019, Robert Johnson, owner of property at 4989 County Road 11, requests site plan approval to build a single family home.

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

Brennon Marks, Marks Engineering and Robert Johnson were present and presented the application to the board.

Mr. Marks explained that they are not here tonight for an approval. They don't have the variances granted that they need yet. However, they are requesting additional review by the Planning Board and possibly another recommendation back to the Zoning Board. The Zoning Board has not granted the variance for the stream setback of 50 feet when 100 feet is required. The discussion at the Zoning Board was the opportunity for the stream to impact the proposed structure. "Now I understand the natural resource protection setback to be protecting the stream from the new structure. So, their question is the ability for this stream to overrun the house essentially and/or..."

Chairman Harvey stated, "Or the stream channel to meander on the site?"

Mr. Marks stated "Or what does this impact do to the stream and the communities below it? So, what we presented to you and also the Zoning Board is we've provided mitigation on this site with a form of an infiltration trench for storm water. It's a class C protected stream by the DEC. We have shown, based on your recommendation we have shown a 5 foot environmental protection area from the top of the bank along the edge of the stream all the way down. We've also added in some additional trees to form root structure and further to stabilize that stream bank. Minimal improvements required for the new structure a little bit of driveway addition. There's an existing driveway and existing garage there. The existing garage is about 8 feet off of the edge of the stream. So, the garage would be the first thing imperil for sure. Discussions went on at the Zoning Board about what can they get for recommendations from outside parties the DEC, County DPW and the water shed. We offered up to them that we'd have a geotechnical engineer evaluate the existing soils on site for any opportunity for stream embankment erosion or catastrophic failure of the stream bank. We offered that up to the Zoning Board for their review for the site."

Chairman Harvey stated that they will refer that to the Town Engineer.

Mr. Marks stated that Planning Board did give the Zoning Board a recommendation for approval. The applicant has changed the variances requested moving the structure closer to Jones Road therefore, requiring a front setback. Originally it was 35 feet from the stream bank, and they have moved it to 50 feet.

Mr. Marks stated that he has evaluated the stream. The stream has not shown significant meandering over the last 50 years.

Chairman Harvey stated that all that is in the Planning Boards purview is to say whether it is a good idea to move the house closer to the road and further away from the stream.

Mr. Lightfoote stated that the Town is working with an engineer to improve Jones Road. They realize there is an issue at the County Road 11 intersection.

Mr. Morse asked Mr. Harvey if they should be looking at lining up the driveway with the one across the street.

Chairman Harvey stated that they are close enough to the intersection that people should be slowing down in that area.

Chairman Harvey stated his opinion that he likes the idea of moving the house closer to the road and further away from the stream.

Mrs. Rasmussen suggested that they reduce some of the gravel especially in the area where they are worried about the bank eroding.

There was discussion that the applicant come back to the Planning Board with the information the Zoning Board of Appeals has requested prior to going to the Zoning Board of Appeals for the Planning Board to make a recommendation back to the Zoning Board of Appeals.

The board discussed changing the December regular meeting to December 16, 2019, at 7:30PM so that they could make a recommendation back to the Zoning Board of Appeals for their December 19, 2019 meeting.

Chairman Harvey adjourned the public hearing to be reopened on December 16, 2019, at 7:30PM.

Mrs. Harris left the meeting at 8:52PM.

#### Sketch Plan:

Jeff & Tris DiFalvio, owners of property at 3606 Otetiana Point, request sketch plan approval to build a detached garage.

Jim Fahy, Fahy Design Associates & Scott Harter, Professional Engineering Group were present representing the DiFalvio's.

Mr. Fahy stated that they are proposing to raise an existing 329 square foot wood frame storage shed that is in disrepair. They would like to construct a 718 square foot two car detached garage. This is within the character of the neighborhood. Most every property on Otetiana Point has a detached two car garage on the east side of Otetiana Point. There is a couple of variances needed from the Zoning Board of Appeals to build the garage.

Mr. Fahy stated that they were hoping to receive both Zoning Board of Appeals and Planning Board approvals in December.

Mrs. Rasmussen asked what the other little building was behind the proposed garage.

Mr. Fahy stated that he would call it a she shed. It's a small shed that's been on that property for many years. They do not want to tear that down.

Mr. Fahy stated that they need a northeast side yard setback variance. 15 feet is required they are going to be 7.6 feet to the overhangs, which will be 8.6 feet to the structure.

Chairman Harvey asked how close the neighboring garage was.

Mr. Fahy stated that he believes it is about 2 feet from the property line. He believes they meet the 10 foot separation but will have a survey done to make sure. The other variance is for lot coverage. The proposed lot coverage is 30.7% where 25% is the maximum allowed. They are actually reducing the lot coverage from existing with the construction they are proposing. They are going from 31.9% to 30.7%. They are removing 720 square foot of pavement.

Chairman Harvey asked if they are counting the porous pavement as lot coverage.

Mr. Fahy stated that they are not counting that as part of the lot coverage, and he thinks that's what they have done with this board on several occasions.

Chairman Harvey asked if they are going to provide a detail on the porous pavement.

Mr. Fahy stated yes that they will do a full porous pavement substructure.

Mr. Fahy stated that Mr. Harter has worked some re-grading on the site so that they are creating better surface flow and maintain the surface flow right on the property. They are providing a linear relief pipe along the northeast boundary to pick up the drainage on that side.

Mr. Dailey stated that looking at the roofline of all the garages on the street the proposed garage is out of character with the additional storage area on the side.

Mr. Fahy explained that if he was to get rid of the 10' wide storage area and was to add it to the length of the garage they would still need a variance to the side property line because the lot narrows.

Chairman Harvey asked what is going into the proposed garage.

Mr. Fahy stated boat toys, lawn equipment etc.

Chairman Harvey stated that "the proposed detached garage looks very nice but part of me is wondering am I going to find this on Airbnb rental parking for 8 cars etc. Then I'm going to hear from everyone of the neighbors because the reason they added another garage is, so they could advertise it that way."

Mr. Fahy stated that he knows these people personally. He designed an incredible Tuscan Villa down on Lake Ontario that they put in 3 million dollars into the property and they have

decided to sell it and move to Canandaigua Lake as their primary residence.

Mr. Fahy stated that they can't get Zoning Board approval before the next Planning Board meeting. He asked if the Planning Board could give a conditional approval. They would like to start construction in the next month.

Chairman Harvey stated that there is no prohibition against conditional approvals. The only thing they can't do is a conditional approval on the County Planning Board.

Mr. Dailey asked how they are going to capture the water from the hard surfaces.

Mr. Harter stated that they looked at the site and got elevations of surface. It is so flat so on the plan is half foot contour intervals. He is proposing a relief pipe on the northeast side of the property. He went on to explain the proposed drainage plan.

Mr. Fahy stated that the roof drains will go to splash blocks to surface drainage that will go to the rear of the property.

Chairman Harvey suggested that they have an infiltration trench to deal with the roof drainage.

Mr. Farmer asked if electric is going to be the only utility to the proposed garage.

Mr. Fahy stated that they would like electric and have not ruled out gas or water.

Chairman Harvey stated that he can't speak for the whole board but personally he is against the gas and the water. It creates the possibility for a residence to appear.

Mr. Fahy stated that the property owner would like to be able to work out in the garage with a space heater.

Chairman Harvey stated that if water is hooked up inside it will need to be hooked to the sewer and that is not going to be allowed. In the plan an exterior spicket is the only thing that may be approved.

Mr. Zimmerman asked if there were any utilities hooked to the existing structure.

Mr. Fahy stated that he does not believe there is any utilities hooked to the existing.

Chairman Harvey stated that what they would need for the next meeting is show the electric to the building underground. Have a survey showing the distance the neighboring structure is from the property line to make sure there is 10 feet between both structures. Supply drainage calculations and show the infiltration. Show the exterior lighting as dark sky compliant.

Mr. Daily stated that they need to be sure they follow the design guidelines.

Mr. Farmer stated they need to have details on the pervious pavement.

Chairman Harvey made a motion to adjourn the meeting at 9:29PM. Mr. Dailey seconded the motion, which carried unanimously.

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Thomas P. Harvey, Chairman

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Sue Yarger, Secretary