

MINUTES
REGULAR MEETING and PUBLIC HEARING
GORHAM TOWN BOARD
JULY 12, 2017

The Gorham Town Board held a Regular Meeting and Public Hearing on Wednesday July 12, 2017 at 7:00 PM at the Gorham Town Hall. Present were Supervisor Lightfoote, Councilmembers; Glitch, Case, Malcolm and Chard. Code Enforcement Officer Freida, Assessor Mineo and Deputy Town Clerk Rita Kulp. Water/Wastewater Chief Operator Coston, Highway Superintendent Ayers and Town Clerk Perrotte were necessarily absent.

Other guests in attendance; Rob Brenner, Bill Pellicano, Rick Szkapi, Jared Hirt and many local residents with interest in the re-zoning of Pelican Point, LLC and the flooding and storm related issues in their area.

1. Call to Order/Pledge to the Flag

2. Public Hearing – Local Law #3- 2017 Re-Zone Pelican Point

The legal notice as it appeared in the official newspaper of the Town was read. Supervisor Lightfoote opened the Public Hearing with the request that comments be limited to three minutes.

Town Law states a sign shall be placed on the property for which a rezoning is requested not less than ten days prior to the public hearing and returned to the public hearing by the applicant or a designated representative. It was brought to the Boards attention that the sign was not returned to the public hearing. The Board agreed to hold the public hearing open until the designated representative for Pelican Point, LLC retrieved the sign and returned to the public hearing with it.

On the motion by Councilmember Malcolm, seconded by Councilmember Glitch, to hold the Public Hearing open until the end of tonight's meeting. Motion carried unanimously. (5-0)

057-2017

The following residents spoke in opposition to Changing the Zoning District of Certain Parcels and Amending a Portion of the Town of Gorham Zoning Map; Mrs. Linda Roche 4785 County Road 11, Mrs. Elizabeth Freese 4761 State Route 364, Mr. Kevin Mattoni 4734 and 4744 State Route 364, Mrs. Margaret White 4854 County Road 11 and Jared Hirt, Esq. representing Robert and Kathryn Baxter. The following letters were submitted to the Gorham Town Board, also in opposition;

MONICA & GENE DELLAPIETRA
4790 COUNTY ROAD #11
RUSHVILLE, NY 14544

JUNE 21, 2017

GORHAM TOWN BOARD
PO Box 224
GORHAM, NY 14461

RE: PELICAN POINT MARINA

DEAR BOARD MEMBERS,

WE HAVE OWNED THE PROPERTY AT 4790 COUNTY RD #11 FOR OVER 50 YEARS. THIS IS THE PROPERTY DIRECTLY ACROSS THE HIGHWAY FROM THE ENTRANCE TO THE PROPERTY IN THE RE-ZONING APPLICATION.

IN THAT TIME WE HAVE EXPERIENCED MANY CHANGES — SOME GOOD, SOME BAD. ONE OF THE CHANGES WAS THE BUILDING OF A SEWER PUMP HOUSE DIRECTLY ACROSS THE STREET FROM US. FOR YEARS WE ENDURED THE SIGHT AND ODORS OF THE PUMP HOUSE. THE SIGHT IS STILL THERE, BUT THE ODORS ARE MOSTLY GONE. NO DOUBT THIS PUMP HOUSE HAS REDUCED THE RE-SALE VALUE OF OUR PROPERTY. BUT WE CAN ACCEPT THAT BECAUSE THE SEWER SYSTEM WAS A BENEFIT TO US AND TO THE COMMUNITY.

THE RE-ZONING OF THE PROPERTY BEHIND THE PUMP HOUSE WOULD BE A CHANGE CLASSIFIED AS BAD. WE HAVE SEEN THE MARINA EXPAND OVER THE YEARS. TEARING DOWN HOMES ON BOTH SIDES OF THE ROAD TO PROVIDE MORE BOAT STORAGE HAS NOT BEEN ADVANTAGEOUS TO THE COMMUNITY. ADDING MORE STORAGE NORTH OF THE CREEK, WHICH ACTS AS A NATURAL BARRIER, WOULD NOT BE A GOOD THING.

THE FIRST WINTER THE MARINA OWNED THE PROPERTY, THEY STORED BOATS THERE. WHEN SPRING CAME, THE BOATS NEEDED TO BE SERVICED AND LAUNCHED. THE NOISE OF THE TRACTORS GOING BACK AND FORTH ON COUNTY ROAD #11 (IS THAT LEGAL?) WAS CONSTANT, HORRENDOUS, LOUD, AND DANGEROUS.

MANY HAVE EXPRESSED SUPPORT FOR THE MARINA OWNERS AND OPERATORS FOR THE WAY THEY DO BUSINESS. THIS IS NOT DISPUTED, BUT SHOULD NOT INFLUENCE THE RE-ZONING AND HOW THE RE-ZONING WOULD AFFECT ON THE COMMUNITY.

RE-ZONING THIS PROPERTY WOULD NOT BENEFIT THE COMMUNITY AS A WHOLE, BUT MERELY EXPAND A BUSINESS IN A RESIDENTIAL AREA.

SINCERELY,


GENE DELLAPIETRA

Notice of Concern Town of Gorham, NY

6 July 2017

From George D. VanArsdale PE
4800 County "Rd 11 #16
Rushville, NY 14544

In connection with the proposed reclassification of the property adjacent to Pelican Point Marina from residential to commercial, I am concerned with maintaining the integrity of Gage Gully which is an environmentally fragile ravine. Storm water Management is not my field of expertise, but clearly this sensitive area presents a hazard. The culvert under County Road 11 may have met the design criteria when it was built many years ago, but in this era of "Global Climate Change" and multiple "100 year" rainfall events within the past two years, its adequacy is in doubt. This is compounded by the large number of fallen trees and other debris up the ravine which could plug the culvert entrance. I certainly hope that no development will be permitted in the ravine. It would be prudent for the Town/County to require a current storm water management plan, taking into consideration the current local rainfall patterns.



George D. VanArsdale PE

C: Town Clerk
Supervisor
Highway Superintendent
Code Enforcement Officer
Ontario County Highway Office

Brian P. Rawson
1865 Maple Road
Williamsville, NY 14221

July 07, 2017

Town Board of Gorham, New York
P. O. Box 224
Gorham, NY 14461

Dear Chairman and Board Members,

I am writing regarding the Pelican Point, LLC rezoning request (Application T-01-2017) of the property parcels located on County Road 11. My wife and I own the parcel located at 4779 County Road 11, which is only about 400 feet East of one of the parcels seeking a General Business classification. I will go on to say that I have been in attendance of most of the town's meetings on this subject since the first application was filed.

I am opposed to the rezoning for two primary reasons. First and foremost is safety. One only must stand on the shoulder of County Road 11 a short time to observe traffic speeds in either direction to understand. Despite speed limit postings and warning lights, many motorists exceed the limit. This is of concern where the road curves just east of the Pelican Point Marina and line of site visibility is compromised. During my professional career years, I served for 22 years as a principal on code and standard making committees with the National Fire Protection Association, and "life safety" was always paramount. I am very concerned that a zoning change that allows for heavier driveway traffic from parcel 4793 would increase accident potential.

My second reason is the uncertain impact rezoning could have on my property stability and value. We purchased our property understanding that Pelican Point Marina is an asset to the community and that we share a property boundary, i.e. Pelican Point owns the parcel behind me. The topography is sloped and heavy rains have sculpted channels or troughs for excess run off. In recent months, heavy rains have moved tons of earth and rock from the sloped areas onto my, and my neighbors' parcels and clogged County Road 11. I do not know what might happen if the upward sloped area behind me were to be altered after a rezoning.

I urge the board members to consider my, and my neighbors concerns prior to deciding on the rezoning application. Thank you in advance.

Sincerely,



Brian P. Rawson

June 27, 2017

Alan & Lisa M. Bishop
4786 East Lake Road
Rushville, NY 14544

Gorham Town Board
P.O. Box 224
Gorham, NY 14461

Re: Pelican Point Marina Planned Rezoning

Dear Mr. Lightfoote and members of the Council,

In January of this year we sold our Fairport home of twenty years and moved to Gorham. After several years of looking for "just the right" location we were beyond delighted to have finally found it. Over the past few months we've enjoyed welcoming family and friends to our home, met many wonderful neighbors and have come to appreciate the uniqueness of our cove community.

Hearing about efforts to rezone the marina parcels is concerning to say the least. As you well know, East Lake Road is a busy stretch. Our house is situated at the bottom of the hill and right at the curve. Traffic moves very fast and leaving and entering our driveway can be challenging at times. We understood this when we purchased and were prepared to deal with it. However, increasing the traffic volume in this already well traveled area is not what we bargained for.

We enjoy having the marina nearby. The staff is friendly, the food is good and we recently purchased our boat there and couldn't be happier with the service. We do realize change is often inevitable but it seems unwise to give any one entity carte blanche for unspecified future development that will affect us all.

The purpose of this letter is to ask that you consider carefully the direction your actions will take this community. We hope that maintaining a safe, welcoming environment for residents and visitors alike will be at the forefront in your decision making process.

Respectfully,
Alan & Lisa M. Bishop

Town of Gorham Board
PO Box 224
Gorham, NY 14461

Re: Pelican Point Marina Rezoning of land parcels

Dear Board:

According to the EPA "Scientific studies indicate that extreme weather events such as heat waves and large storms are likely to become more frequent or more intense with human-induced climate change". On Thursday evening, June 15, we experienced an extreme rain storm. According to my rain gage nearly 4 inches of rain fell, causing severe damage to my creek bank property.

I have lived at 4718 State Route 364 for 14 years, and have experienced high water of this type four times before. The amount of water running down upon my land from the higher properties, to the south, was like a raging river. This water ran from my home along both sides of my 700 ft. driveway, flooding it, to the run off creek. At the creek the water washed away \$1200 worth of large rocks and boulders retaining the creek walls. I also had trees, plants, and sod ground washed away.

According to a topographical map my home is approximately 25 feet lower than Tax Parcel 141.00-1-64.500. I do not believe that enough study has been done on the water flow disruption that a sizeable parking lot would cause. When the top ground cover of sod, brush, and trees is removed and replaced with stone, the amount of water absorbed by these parking lot stones will be significantly less, therefore causing more runoff. I cannot afford to have this destruction keep happening, nor can my neighbors to the west along County Rd. 11. Mother Nature is enough to deal with; I don't need it compounded by a boat storage lot.

There is another issue I have with the marina using a personal driveway easement for a business venture. My land is part of this easement, but I do not use it. I constructed my own driveway when building my home. I don't feel that we as neighbors should have to pay for a profitable business to have a boat, trailer and vehicle driveway maintained within this easement.

My driveway entrance is just after the speed on Route 364, heading south, increases from 45 mph to 55 mph. At this point there is a curve in the highway and the beginning of a passing zone making you use extreme caution upon exiting and heading south. With the increased amount of slow moving vehicles with boats on trailers being passed by faster traffic exiting my driveway will become even more hazardous. This will be a dangerous situation for my self and my family.

I am strongly opposed to the rezoning of all the parcels.

Sincerely,

Sharon Summerson
4718 State Rt. 364
Rushville, N. Y. 14544

Enc: 2 photos



The creek after the large rocks and boulders had been washed away.

*Sharon Summerson
4718 State Rt. 364
Rushville, N.Y. 14544*

7/6/2017

20140728_115526.jpg



*Water flowing across the driveway. This water flowed
along both sides of my driveway 500 ft to this point.*

*Sharon Summersow
4718 State Rt. 364
Rushville, N. Y. 14544*

<https://mail.google.com/mail/u/1/#inbox/15c1dc8ea869fd00?projector=1>

1/1

Kevin Mattoni and Pamela Merrick
4734 and 4744 State Route 364
Rushville, New York 14544

July 26, 2017

Town Board of Gorham
4736 South Street
Gorham, New York 14461

Dear Board Members:

We are writing this letter to register our formal and vigorous opposition to the application to re-zone the Pelican Point Properties from Rural Residential and/or Agricultural to General Business use as discussed during the July 12th 2017 Town Board meeting.

Our property is immediately adjacent to the proposed re-zoned land. We will be directly and severely affected very negatively by this arbitrary re-zoning proposal.

We purchased this property last fall as our final retirement property and we had been searching in this area for almost 20 years to find what we were ultimately looking for. Our requirements were simple, a rural area that overlooked the lake, with enough land for our horses and our antique car hobbies. We also did not want anything that was right on a busy road (this property has a very long driveway so we are way off the beaten path) and it had to be close enough to town so that we had access to basic amenities. We also needed to be able to commute to Rochester to have access to an airport while we attempt to retire. While this seemed to be a fairly simple dream, in reality it was not. It took us many, many years to find the property we now own, that completely fits what we had been searching for. We were also happy to have the marina nearby, as we do own a boat and were excited to have access to the lake via Pelican Point Marina, which we know has been here for many years and whose services we have utilized in the past as well.

And now to our complete amazement and extreme dismay, the Town of Gorham is entertaining an application to re-zone the entire Pelican Point land holdings from rural residential and/or agriculture, to general business use. Never in our imagination would we think that such a thing could happen right next to our beautiful property, and in an area that is most certainly completely rural and should be expected by any reasonable person to remain so.

Is that not why zoning laws exist? So that people who worked their entire lives and have now invested their hard-earned money to purchase their "dream" property can rely on the character of that property and the surrounding area to remain as is, without fear of arbitrary and capricious changing of the laws?

This action being considered by the Town Board will affect us and all of the properties around us to great detriment. Specifically, we will experience the following negative effects from this completely ill-advised re-zoning application:

- 1) Increased traffic on State Route 364 which is already well traveled and cars currently go at very high speeds. There is also a blind hill on State Route 364 directly to the South of our driveway and cars come over that hill traveling North very fast. We think that this will be a very dangerous situation for any driveway that is South of ours, especially one that has slow moving boats being trailered in and out, and for any other traffic using that driveway.
- 2) We will have commercial and other traffic traveling down a driveway right next to our land, where we were expecting our horses to have peaceful grazing situation, and more importantly of course, we were expecting a peaceful living situation here as well.
- 3) We will certainly have a loss of visual enjoyment with respect to our property. If we wanted to look at boats or a parking lot or any other commercial venture, we would not have purchased 10 acres in the Town of Gorham, a property that was zoned rural residential/agricultural with a beautiful lake view, and paid the premium price attached to obtaining such a property.
- 4) As noted, we will tragically lose the peaceful and tranquil nature of our land, the MAIN reason we are here.
- 5) There will be increased erosion issues on our property. We have already experienced several flash floods just in the few months since we took ownership. We lost part of our driveway due to flooding during the June 15, 2017 flash flood and we literally had 3 "rivers" of water crossing our property heading down to County Rd 11, with immense amounts of water going by with great force. Our garage was completely flooded as well. We did not expect to experience this type of flooding on this property as we are located high on a hill. But water comes directly from the South of us during rainstorms, which happens to be one of the Pelican Properties re-zoning parcels in question. Development of the Pelican Point Properties can only make things worse with respect to erosion and further damage to our property and the properties around us.

But in summary, the crux of this issue is simple. Why should one local area business and a couple of well-to-do business persons, who were also QUITE AWARE of the zoning regulations when they purchased the Pelican Point Properties, have the right to trample on so many other's rights and destroy the enjoyment and the value of the properties that all of their surrounding neighbors invested in? We should be able to rely on our government representatives to uphold the zoning laws that we relied upon when making our purchasing decision and that same observation most certainly applies to the owners of the Pelican Point Properties.

With all due respect, we are in complete opposition with the application to re-zone the Pelican Point Properties and we will avail ourselves of legal representation and will pursue legal action as needed with respect to this issue. In conclusion, we request that you deny this application.

Sincerely,



Kevin Mattoni and Pamela Merrick

Town of Gorham, Town Board
PO Box 224
Gorham, NY 14461

July 5, 2017

Dear Town Board Members,

This letter is in response to your announcement of a public hearing to be held July 12, 2017 regarding Pelican Point Marina's application to rezone three parcels of property to General Business from their current Residential zoning status. One of these parcels, identified as "D" (Tax Map 141.00-1-60.000) is across Route 364 from our property and is a large part of what we look at from the windows of our home.

We have owned our property at 4761 Route 364 since 2008. William's parents had previously owned it since 1974. William and his father Howard Freese developed a home based business, Rush Machinery, on this property circa 1982 that is still in operation today. In all those years the Freese family took great care to maintain the rural and agricultural appearance of the property. These efforts preceded the Town of Gorham Masterplan regarding development within the town, and we continue to respect the Masterplan guidelines to this day. In 2008, when a warehouse expansion was necessary to keep Rush Machinery at this location, we took great care to tuck the extension in the rear of the building and to match the agricultural building appearance of the older structure. All of this was done out of respect for the natural beauty of the rural landscape of the property, not just for our own benefit, but for our neighbors and visitors to the area.

We would like to remind the board that the scenic vista on our section of Route 364, and named in the town's Masterplan as a prized element of the town's character, includes the parcel "D" owned by Pelican point Marina. On a nearly daily basis we observe awed visitors to the town of Gorham pulling off to the side of the road as they are traveling north 364 to take in and photograph this stunning vista.

Our concern is that the marina, facing opposition from neighbors on County Rd. 11, may be looking to the property on Route 364 as an alternative storage site for their client's boats. We will be straightforward here, of course we do not want to look out over a lot full of boats every time we sit down to dinner. Nor would some sort of storage shed for boats be a welcome sight. What jumps to mind is a jarring sight further north on 364 where a property in a cluster of small homes is storing heavy excavation equipment on every spare inch of the place. If we had bought a property next to the marina we would have expected to see shrink wrapped party barges etcetera, but we could not have anticipated this new development of the marina potentially coming to our front door. However, do not consider only the impact on our personal view, please think over how inserting a boat storage facility into the landscape here could impact the experience of every passerby for decades to come.

Eventually we be gone, but we would like to think that the generations to follow us might also appreciate the efforts Gorham has made to preserve special views of open spaces and Canandaigua Lake. There will always be increased pressure to develop the Town of Gorham. The problem with beautiful places is that we humans tend to love them into oblivion. Please consider the vista as you consider this application. We understand that Pelican Point has made this request of the town so that they can "better serve their existing clients".

It is the Town Board's duty to serve all taxpayers- existing and future. Your Masterplan was a document with some foresight, we trust that the current board will also employ foresight as you make difficult decisions regarding the preservation of our lovely town's character.

Thank you for your service, We look forward to your public hearing on July 12, 2017.

William and Mary Margaret Freese
4761 State Route 364
Rushville, NY



100 Meridian Centre Blvd.
 Suite 300
 Rochester, NY 14618
 (585) 787-7000
 FAX (585) 787-7007

July 26, 2017

**VIA FACSIMILE TO: (585) 526-4799 &
 Email to: flightfoote@gorham-ny.com**

Gorham Town Board
 Fred Lightfoote, Supervisor
 Town of Gorham
 P.O. Box 224
 Gorham, New York 14461

RE: Pelican Point Marina Re-zoning Application

Dear Supervisor Lightfoote and Members of the Town Board:

The law firm of Evans Fox LLP represents the Kathryn M. Baxter Revocable Trust and the Robert R. Baxter III Revocable Trust, being the owners of 4780 East Lake Road and 4787 East Lake Road, Gorham, New York. Robert and Kathryn Baxter reside at 4780 East Lake Road and their son, daughter-in-law and two (2) grandchildren reside at 4787 East Lake Road. Kindly accept this letter in follow-up to my appearance before the Town Board at the Public Hearing held on July 12, 2017, and in further opposition to the pending application submitted by Pelican Point Marina ("Applicant") seeking the re-zoning of four (4) separate parcels to General Business.

In reviewing the pending application, the Town Board is tasked with determining whether the re-zoning of these parcels will be: (a) a benefit to the general welfare, health and safety of the community; and (b) in compliance with the Town Comprehensive Plan. There has been absolutely no evidence provided to the Town Board that supports a conclusion that the proposed re-zoning will benefit anyone other than the Applicant or that the requested re-zoning is in compliance with the Town Comprehensive Plan. In fact, a cursory review of the Town Comprehensive Plan establishes that a re-zoning of the subject parcels to General Business is in clear conflict with said Plan and the welfare of the community.

First, and as clearly evidenced by the significant number of residents that appeared at the Public Hearing in opposition to the pending application, it must be noted that the community (especially those residents who live by, around and near Pelican Point Marina) is overwhelmingly opposed to the re-zoning of the subject parcels to General Business in an area and district that is otherwise comprised exclusively of residences.

Second, it is noted that the Planning Board made a finding at its meeting on May 22, 2017 that Pelican Point Marina was at or near the size adequate to serve the needs of the Town of

COUNSEL FOR WHAT MATTERS MOST
 evansfox.com

Gorham. Assuming an intent by the Applicant to use the re-zoned parcels for the expansion of the marina, it is submitted that said expansion only benefits the Applicant, and not the community or the residents of Gorham. In that regard, the Town Comprehensive Plan does not indicate a need or desire for the marina to be expanded or for this area of the Town to have general business and commercial development.

Additionally, it is critical to recognize that re-zoning the subject parcels to General Business has a significant and permanent impact on the permitted uses of these parcels. Said re-zoning will not simply permit the parcels to be utilized as additional storage areas for boats and/or car parking for Pelican Point Marina, but will permit the parcels to be used (now or in the future) as a matter of right for things such as a convenience store, daycare facility, dry cleaning facility, hotel/motel, restaurant, retail services, and shopping center. (See Section 31.4.6(C) of the Town Code). None of the foregoing uses are residential in nature, nor do they coincide with the residential character of the surrounding properties and community. Permitting the business and commercial development of these four (4) parcels in the middle of a residential district surrounded by homes is impermissible spot zoning and should be denied.

Moreover, the Planning Board made a finding at its meeting held on May 22, 2017 that the operation of a marina within the Town that serves local residents is an important part of the quality of life to the community. In that regard, it is again important to note the commercial uses that will be permitted as of right if the subject parcels are re-zoned to General Business. Accordingly, re-zoning the subject parcels to General Business may result in Gorham losing its only marina to future alternative commercial development (e.g. hotel/motel, retail, restaurant, etc.), thereby depriving Gorham residents of the very marina that the Planning Board has determined to be important to the quality of life of the Town residents.

As support and evidence of the concerns expressed above, it is critical to note the conditions set forth in the Planning Board recommendation. Many of the conditions imposed by the Planning Board reflect its concern that the subject parcels will be utilized for something other than marina use. The foregoing is evidenced by the following conditions set forth in the Planning Board recommendation: (a) that the Applicant provide a deed restriction or other document in a form acceptable to the Town Board limiting the use of Tax Parcel 141.00-1-64.5 to outdoor storage and that no other commercial business be located on said property; (b) that the re-zoning be subject to development of a site plan approved by the Town Planning Board that: (i) provides a visual barrier between boat storage and parking areas and the adjacent residential property on both County Road 11 and State Route 364, (ii) provides a means of internal vehicular circulation minimizing the use of County Road 11 from moving boats, trailers and vehicles on the marina's property with the exception of the transport of boats to the marina's property accessed from Route 364, (iii) identifies customer parking, boat and boat trailer storage areas, display areas and other incidental uses of that property including a plan to stabilize the bank abounding Tax Parcel 141.10-1-51.210 and (iv)

establishes the maximum number of boats to be stored on site by Pelican Point Marina. Critically, it appears that the Planning Board does not want any other type of commercial development on the subject parcels. As set forth above, a re-zoning of the subject parcels opens the door to many future business and commercial uses of these properties, as well as the ultimate loss of the only marina in Gorham. Additionally, and another unintended result, the combining of the subject parcels into one parcel zoned as General Business (as set forth in the Notice of Public Hearing) results in the Applicant being able to have a large concentrated development that will not exceed the maximum 35% lot coverage permitted by Section 31.4(B)(1) of Town Code.

In that regard, it appears that the Applicant has yet to avail itself to certain remedies expressly provided for within the Town Code that would potentially allow the Applicant to obtain more parking and boat storage without creating a permanent adverse impact on the community. Sections 31.9.1 and 31.9.13 of the Town Code permit the Applicant to seek a special use permit and specifically set forth the criteria for granting special use permits for a marina or boat launch. Further, Section 31.11.9 of the Town Code permits the Applicant to seek a use variance. Assuming the Applicant's intent is to continue with the marina, the afore-specified sections certainly appear to be a better alternative and temporary means of achieving expanded parking and storage – without risking unwanted future commercial development and the loss of the marina.

Given all of the foregoing, it is respectfully requested that the Town Board deny the pending application seeking the re-zoning of the subject parcels to General Business.

Very truly yours,



Jared P. Hirt

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF MONROE) ss:

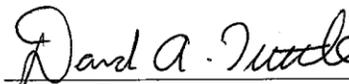
DAVID A. TUTTLE, P.E., being duly sworn, deposes and says as follows:

1. I am a Professional Engineer and the owner and founder of Pittsford Traffic and Radar, LLC ("Pittsford Traffic") located at 46 Sturbridge Lane, Pittsford, New York 14534. Pittsford Traffic was founded in 2005 and provides traffic counting services.

2. Pittsford Traffic conducted a traffic count study of all vehicles traveling on the specific stretch of East Lake Road in Gorham, New York adjacent to the Pelican Point Marina during a 48-hour time-period, starting at 12:00 a.m. on June 30, 2017 and ending at 11:59 p.m. on July 1, 2017.

3. Specifically, this traffic count study was completed by utilizing a traffic counting device installed at the utility pole located near 4792 East Lake Road, Gorham, New York, which is the first utility pole located North of the Pelican Point Marina.

4. A total of 3,155 vehicles were counted traveling that stretch of East Lake Road during the above-specified 48-hour period, with 1,714 vehicles traveling in the southbound direction and 1,441 vehicles travelling in the northbound direction.


David A. Tuttle

Sworn to me this 12
day of July 2017


Notary Public

DEBRA L. THESING
NOTARY PUBLIC, State of New York
Registration No. 01TH5078955
Qualified in Monroe County
Commission Expires June 2, 2019

July 21, 2017

Dear Mr. Lightfoote,

You are part of a board tasked with representing the residents of Gorham. Many of those residents made very clear at the July Town Board meeting, their opposition to the proposal to rezone three parcels of land from R-1/RR to GB. In fact, numerous residents have made their views clearly known at every planning board and town board meeting over the last year – overwhelmingly they do not want these parcels rezoned. To do so benefits only the marina, not the residents whom you represent.

Rather than simply restating my objections expressed at numerous town meetings, I would like to address the statements made by Mr. Brenner at the July town board meeting, that the only matter to be considered by this board at this time is the rezoning request, that what the future plans are is of no consequence now since they will be dealt with by the planning board. That is absolute nonsense. If there is to be no discussion of future plans, then there is no need to rezone anything. It is precisely because of their future plans that they are asking for the zoning change, so those plans must be part of the discussion and the decision. Zoning laws are in place for the future. They exist to provide rules that we, the residents of the Town of Gorham, are supposed to be able to rely upon.

Although we all have very legitimate concerns about the value of our property going down, this is not simply a financial issue. It is also a quality of life issue. I have enclosed a copy of a 2009 Daily Messenger news article that demonstrates not only the willingness of the current owners of Pelican Point Marina to sell the property, but its significant potential value to developers as undeveloped land overlooking Canandaigua Lake. The only piece missing from this attempt to market the uphill parcel was access to public water and sewer, and direct access to County Road 11 and the marina's lake frontage. This rezoning proposal would provide both. It is my opinion that those who believe Mr. Brenner's statement that the marina owners simply want to park cars and boat trailers are both naïve and short sighted. This is a residential neighborhood that happens to have one small scale business permitted to be within it. Please do not allow it to become anything other than that. I ask that you deny the rezoning request and that another way be found to deal with the parking issue.

Sincerely,



Linda Roche
4785 County Road 11

DAILY MESSENGER

Broker: Marina is 'largest potential development site'

By Julie Sherwood, staff writer

Posted May 10, 2009 at 12:01 AM

Updated May 10, 2009 at 10:02 AM

FOR SALE: At least 10 parties have expressed an interest in buying the Pelican Point Marina, says the brokerage company handling the sale.

The Pelican Point Marina is for sale by a Fairport-based brokerage company, raising concern about potential development at the 36-acre site on East Lake Road.

Most of the property is 25 acres of woodland behind the marina, zoned for general business use, which could include anything from a hotel to a yacht club to a golf course, according to town code.

The property includes the marina at 4801 East Lake Road (County Road 11), the 25 acres behind the marina, a little over an acre of lakefront and 6.4 acres on Route 364 (zoned rural residential, which doesn't have public sewer or water).

"We want a developer with a vision to use the marina and also have access from above," said Vince Pettrone, sales agent with Pyramid Brokerage Company.

"There is an operating marina and developable land above the marina off Route 364."

Pyramid is advertising the property on its Web site —

www.pyramidbrokerage.com/PelicanPoint — as "the largest potential development site in the NYS Finger Lakes Region." It describes the property as "a 36-acre prime waterfront development parcel," with 209 feet of lake frontage, scenic gorges, beautiful waterfalls and a full-service marina.

"You are talking about a lot of acreage," said Bolton, a member of Canandaigua Lake Association, formerly East Shore Association. The east side of the lake is already under pressure, he said, which includes a housing development under way near Deep Run Park on Route 364 and proposed developments on steep slopes above the lake in Middlesex. "If you combine all this together, you have massive development," he said.

Bolton said residents need to be diligent in paying attention to what is proposed, and advocate for preserving what is left of the rural character on the east side of the lake. But it is tough, he said: "Money talks."

"Any developer wants to do as much as the law lets them do," said Marty DeVinney, chairman of Canandaigua Lake Watershed Alliance and chairman of the Middlesex Planning Board. In December, Middlesex instituted a 60-day moratorium to give town officials there time to review and possibly tighten zoning ordinances and regulations pertaining to subdivisions and other development near the lakefront. Gorham "has experienced (development) pressures we are now experiencing," he said. "We have used their laws as a reference."

Gorham has so far proved it is "good at striking that balance" between development and preservation, added DeVinney.

"Any development should be done rationally and with the least negative effect on the environment and the lake," he said. "That is a general guiding principle."

READ NEXT

**These boys
thought they'd
found 'a big, fat...
Posted at 4:15 PM**

**Key events in OJ
Simpson's fall
from sports her...
Posted at 3:09 PM**

**The No Fun
League (NFL) is
getting a bit...
Posted at 3:00 PM**

**Honorably
discharged
veterans will...
Posted at 2:30 PM**

July 21, 2017

Dear Mr. Lightfoote,

As a resident whose property on County Road 11 is adjacent to property owned by Pelican Point Marine, I encourage the town board to deny a change in zoning from residential to general business district as outlined in Pelican Point's presentation at the public hearing of the town board meeting on July 12th.

I believe this proposal solely benefits the owners of Pelican Point Marine, at the expense of its neighbors, by opening the floodgate to potentially irreparable commercial development of the neighborhood. Approving the zoning change and leaving future development to the discretion of the planning board is questionable at best. I have attended several planning board meetings over the past two years. At the May 22nd meeting, Mr. Harvey's written resolution approving the zoning change was passed by a 6-1 vote with barely a cursory reading by the members of the board. Only one board member, Mr. Dailey, voted no, noting concerns of the neighbors expressed at previous meetings were not addressed.

As evidenced at the public hearing on July 12th, there is substantial opposition to the change in zoning. In fact, the only support came from Pelican Point's attorney, Mr. Brenner, and Jon and Vicki Lewis (who neglected to disclose their financial relationship with the owners of Pelican Point Marine).

As you are an elected representative of ALL residents of the town of Gorham, I urge you to vote NO on the rezoning of Pelican Point Marine's parcels on County Road 11 and State Route 364 from residential to general business district.

Sincerely,



Michael G. Roche

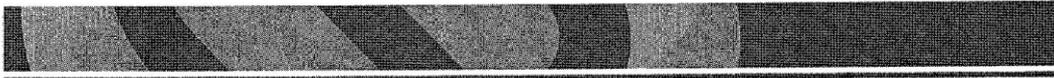
4785 County Road 11

Supervisor Lightfoote suggested to the Board that voting be postponed. He would like to take extra time to take into consideration all the comments and information that was presented at tonight's meeting before making a determination.

Supervisor Lightfoote also said the Board will take letters and correspondences, regarding the rezoning request, until July 26, 2017. That will allow residents more time to submit their opinions if they wish.

Voting on Local Law #3 – 2017, the re-zoning request, will take place at the next regular Town Board meeting on August 9, 2017 at 7pm at the Gorham Town Hall.

John and Vicky Lewis 4790 County Road 11, spoke in favor of the rezoning request and Robert Brenner, Esq., representing Pelican Point LLC, submitted the following letter.



McFarland Johnson
Innovative Solutions / Sustainable Results

2525 SR 332, Box 6, Suite 101 • Canandaigua, NY 14424
Phone: 585-905-0970 • Fax: 585-905-0882
www.mjinc.com

June 28, 2017

Robert J. Brenner, Esq.
Nixon Peabody LLP
1300 Clinton Square
Rochester, NY 14604-1792

RE: Pelican Point Marina Rezoning
4801 Co Rd 11, Rushville, NY 14544

Dear Mr. Brenner:

At the request of Nixon Peabody LLP, McFarland Johnson has reviewed the existing traffic conditions on County Road 11 in the Town of Gorham, New York in the vicinity of the existing Pelican Point Marina business and potential impacts from the re-zoning of the contiguous properties described below.

Review of Existing Roadway Conditions:

Based on the latest available traffic counts recorded by the New York State Department of Transportation for County Road 11, the average annual daily traffic (AADT) on this road is approximately 69 vehicles per day. This is an extremely low volume of traffic with an average of 5-6 vehicles per hour on the road during daylight hours. The data shows that the peak hour of traffic (5-6pm) had 10 vehicles counted, 5 in each direction. The traffic volumes collected by NYSDOT on State Route 364 reveal that this road has an AADT of 1898 vehicles with direction peak hour volumes around 120 vehicles. Attached are the NYSDOT traffic count data.

It is understood that during the weekends within the summer months these volumes increase at certain hours and vehicles are often parked on the side of County Road 11 as a result of limited vehicle parking at the nearby residential properties as well as Pelican Point Marina, the subject property.

Traffic Impacts of the Proposed Rezoning:

It is our understanding that Pelican Point Marina has requested the rezoning of certain adjacent properties (noted below) from Residential Use classifications to General Business (GB), noting that Pelican Point Marina currently has approximately 30 acres zoned GB.

Proposed Rezoning:

1. 1.046 acres along County Road 11 (currently zoned R-1 to GB);
2. 0.234 acres along County Road 11 (currently zoned R-1 to GB); and
3. 6.382 acres along State Route 364 (currently zoned R-R to GB).

The rezoning will allow the Marina to park boats and vehicles on the additional land which the Marina currently owns, freeing up parking spaces in the front of the property to avoid having Pelican Point customers parking on the shoulders of County Road 11 (helping to alleviate and reduce such parking along those shoulders to residences in the area). Beyond this reconfiguration of parking and storage, no physical expansion of the existing operations is currently proposed, so no additional traffic should be generated. There are no contemplated projects at this time other than maintaining the existing Marina operations.

Based on the information above, the proposed rezoning will likely result in minimal to no increase in the existing overall traffic conditions on County Road 11 or State Route 364. Based on our experience, a typical rural county road of this nature in Ontario County can accommodate a couple hundred vehicles per hour before any additional traffic analysis is necessary to assess capacity, also State Route 364 roadway corridor has excess capacity in the area as well. The proposed rezoning and reduction in vehicles parked along the County Road 11 will likely increase driver visibility and roadway site distances in this section of the County Road 11 corridor.

Please do not hesitate to call should you require additional information or have any questions.

Sincerely yours,

McFARLAND-JOHNSON, INC.



Adam J. Frosino, PE
Project Manager

Representatives from Pelican Point, LLC returned to the Town Hall with the signs.

At 8:55pm on the motion by Councilmember Glitch, seconded by Councilmember Chard, the Public Hearing was closed. Motion carried unanimously. (5-0)

058-2017

Supervisor Lightfoote suggested that anyone wishing to make further comment by written letter, phone or email please do so by July 26, 2017.

3. Privilege of the Floor:

Mrs. Sally Napolitano 4661 Lake Drive. Mrs. Napolitano said they've seen an increase in flooding/water events over the last four years on Lake Drive. She said focus needs to be east of Route 364 to slow, naturally filter and divert water before it enters their property.

Mrs. Napolitano said "something needs to be done upland to keep the water from coming down into the lake. The lake is ultimately what we should be concerned about."

Mrs. Napolitano read the following letter, submitted by neighbors Hon. Richard E Stewart and Dr. David Ramsay, that they requested be read into the Town Board Minutes.

4574 Lake Road
Town of Gorham

To the Board of the Town of Gorham:

July 11th, 2017

I am at a loss at the relentless flooding of my home and property. When considering purchasing this home, we were told that the area floods once every 10 or 20 years. I believe that is no longer the truth for Cottage City.

Since the purchase of our home in 2012, we have had a variety of floods every year with the only exception of 2016, which was the year of the drought. The floods are not only growing in number but also in strength.

There have been 5 floods just this spring of 2017. Each one of those has brought water into my yard and garage with two of them, April 20th and June 15th, creating such destruction that it has required me to contact my flood insurance company to repair my home, yard and beach only to be wiped out again 6 weeks later. I have had to use my flood insurance 3 times in 5 years.

Two feet of water, carrying mud, gravel and debris are slowly tearing apart my turn-of-the-century cottage. A historical home that I have tried to save rather than tear-down. It is only a matter of time before these floods render my home unsellable. Presently, town and county are by proxy, seizing our property by eminent domain by effectively turning our yard into a drainage system.

This disastrous flooding bears greater complications beyond my home. It is also environmentally effecting our lake, wildlife and drinking water. All you State, County and Town Politicians' tell me how to help you – help us. Before legal action becomes inevitable, great funds are wasted by both parties and election year arrives.

This is an urgent problem. The time for conversation is drawing to an end and the scope of this issue is now beyond any single homeowner. .

Sincerely,

Hon. Richard E. Stewart
Dr. David Ramsay

Several other residents spoke out in regards to the flooding from recent storms in their area; Suzanne Craugh 4576 Lake Drive, Sara Hastings 4493 Lake Drive, Robert Brancato 5015 County Rd 11, Lynn Klotz 4554 Lake Drive, Dorothy Condon 4777 County Rd 11 and Nick Mendola 4612 Lake Drive.

Residents are concerned about future events and want to know what the Town is going to do to help correct the situation. Residents think a culvert change, a three foot ditch or a change in farming methods upstream from Cottage City would help the drainage issues.

Supervisor Lightfoote said "I appreciate what you're saying, we have stepped up efforts here. In regards to the latest storm, it wasn't historical when you're looking at the amount of rainfall we had but when you look at the time frame that it came within, that was huge. This was a very focused, very small area that got the storm. Over the last four or five years there have been a few of these storms. This last one was probably the worst one we've experienced. We are working with the Watershed Council and some other organizations. We have really stepped up efforts to try and address the situation. We're trying to deal with damages and also to go beyond that and do what we can both to expand whatever infrastructure we have and looking into retention ponds for upstream."

Supervisor Lightfoote understands the concerns that residents have that are down along the lake but asked them to try to remember there are residents up above experiencing the same type of damage.

Supervisor Lightfoote said "We're experiencing storms, because of their short duration the same amount of rainfall but, it's coming in a short period of time. That's what a lot of the problem is. We're all having to deal with a greater capacity. The Town has to step up, we have to do more, the State does, the County does. At the same time, as residents everyone needs to. To make their properties more robust and able to handle these events. At the Town and the County we most certainly are trying, as we go forward, to build more capacity into things. Many of us need to step it up whether it is municipally or personally."

Robert Baxter, 4780 County Rd 11, said "you've got one major parcel that's causing tons of problems, the farmer, it's clear that that's the change."

Supervisor Lightfoote asked Mr. Baxter how he knows that the farmer is the source of the problem.

Kathryn Baxter, 4780 County Rd 11, said "the farmer at the top of the hill because water runs down hill."

Kevin Olvany Canandaigua Lake Watershed Program Manager said "We as a Watershed Council look at these things very holistically, very proactively. If we start out a discussion by blaming the farmer, we're done, we're not going to be productive. We're not going to come up with holistic solutions on how we think about these things as we move forward. The farmer has the right to work the land as he chooses. Can they take out hedgerows? Sometimes it's good to take out a hedgerow it allows them to run their rows the proper way. They have changed the type of crop up there also. It's the first year they've changed to a hay/wheat type of crop, as that gets thicker that ground is going to be able to accept a lot more moisture without it running off but, that farmer has the right to work the land as he chooses. That's one of the things we need to think about. The other thing is that rain event on June 15th, I was out until twelve o'clock that night looking at areas all around the lake. If you look at the farm conditions at that time, some of them lost their entire crop, it got washed down into the lake. They lost major

dollars. So, it's both sides of the equation we always have to think about regarding runoff and those aspects.

Whether it's changing climate or a changing local patterns but, from 2011 for sure we had a FEMA event which caused a lot of issues down along Cottage City Drive all the way through to present day. In the last seven to eight years we are getting storms like we've never seen before time and time again. Why? I'm not sure but we have to adapt to it because it's probably going to stay with us. We can't say well it's from 364 east, where we really have to focus. We have to focus on the lake all the way up to the head waters there are many places that need to be enlarged. It's from the lake all the way up we have to think about what we need to do to take personal responsibility, and can we partner with the farmer. We're dealing with 99 percent plus of the land up there being privately owned. With Right to Farm laws and those aspects it's really coming at it as a partnership aspect. I hesitate to see formal drainage districts because that becomes such a legal instant condition but maybe voluntary districts, maybe reach out to the farmer and say can we work with you. A lot of the farmers in Gorham want to do the right thing, how do we give them the tools. There are a lot of issues to deal with. The County will be a big player in this hopefully we can do some drainage studies but these things take time. We can't just rely on Government to fix it we have to think what can we do in the non-government level between partnerships with the farmers upstream and downstream. Can we be a facilitator, things along those lines. If anybody wants to look at their culvert to figure out the drainage area we'll look at what's going on in that drainage area and help you do that. We will do that for you free of charge. That is our job, to provide that kind of service. We'll go out, try to access the situation."

Supervisor Lightfoote said regarding drainage issues, if the rezoning of Pelican Point LLC is approved, they will have to come in before the Town Planning Board for site plan review. During site plan review issues like drainage will be addressed.

Councilmember Glitch said if you have a concern about anything regardless whether it's the Pelican Point thing or other things don't be afraid to send us an email or make a phone call.

4. Approval of Minutes – 6/14/17 Regular Meeting Minutes.

On the motion by Councilmember Chard, seconded by Councilmember Malcolm, the minutes from the 6/14/17 meeting were approved as submitted.

059-2017

5. Audit of Bills:

Abstract # 7

A 115,162-198	\$19,386.93
B 170-191	3,144.59
SL 166,189	639.88
DB 125-144	284,233.88

SS	57-64	6,281.89
SW1	116-131	11,215.70
HD	49	1,010.00
HI	51	319.47
HM	50	1,500.00

On the motion by Councilmember Chard, seconded by Councilmember Case, the bills were approved for payment. Motion carried unanimously. (5-0)

060-2017

6. Reports of Town Officials:

- a. Water/Wastewater Plants - written report on file.
- b. Highway Superintendent - written report on file.
- c. Zoning – written report on file.
- d. Assessor – no report on file.
- e. Town Clerk - written report on file.
- f. Supervisor – written report on file.

On the motion by Councilmember Malcolm, seconded by Councilmember Glitch, the reports of Town Officials were approved. Motion carried unanimously. (5-0)

061-2017

7. Business:

- a. Shared Highway Services Agreement –

On the motion by Councilmember Glitch, seconded by Councilmember Case, to accept the Shared Highway Services Agreement. Motion carried unanimously. (5-0)

062-2017

- b. Case Farm Lease - discuss at August meeting
- c. Water/Wastewater Sewer Rates - discuss with Chief Operator Coston at August meeting.
- d. Draft Onsite Wastewater Treatment Law –

Code Enforcement/Zoning Officer Freida is requesting that the Board remove the definition of 'bedroom' from the final draft of the Onsite Wastewater Treatment Law. The draft law states that any room 70 square feet or more is considered a bedroom. Some closets and dens would have to be considered a bedroom. Officer Freida would like the definition removed before they approve the final draft.

On the motion by Councilmember Chard, seconded by Councilmember Malcolm, to accept the final draft of the Onsite Individual Wastewater Treatment System

Law, with changes made regarding the definition of bedroom by the Code Enforcement Officer. Motion carried unanimously. (5-0)

063-2017

e. Town of Gorham Sewer District –

On the motion by Councilmember Chard, seconded by Councilmember Glitch, approval to pay \$1,000.00 insurance deductible for a backed up sewer that caused damage to the property. Motion carried unanimously. (5-0)

064-2017

f. Supervisor Lightfoote said the Water Department is looking to replace a part-time position with a full-time position. To be further discussed at the August meeting.

8. Privilege of the Floor:

Linda Roche wanted to clarify the dates for voting on Local Law # 3- 2017 she asked if the Pelican Point re-zoning proposal is still open for public comment for two weeks?

Supervisor Lightfoote said yes.

Mrs. Roche then asked if the vote on whether to re-zone or deny the request will be next month at the Town Board meeting? Will there be open discussion?

Supervisor Lightfoote said that is right. The public hearing was closed tonight.

Councilmember Glitch said there is always Privilege of the Floor at the meeting if you have something to say.

Pamela Merrick said "I wanted to say we're new to this area. I grew up in Pittsford I grew up coming down to the lake. I grew up with Roseland Park and Camp Onanda. I understand this is the Town of Gorham, this isn't the City of Canandaigua but I look at the debacle at the north end of the lake when I'm out there on my boat. I would really, truly hate to see something like that happen in this Town. I love this lake, I grew up here. That would be something that would be tragic, that steel structure that is sitting there."

Lynn Klotz asked for the Highway Department Report to be read.

Supervisor Lightfoote read the report.

9. Executive Session: at 9:50pm on the motion by Supervisor Lightfoote, seconded by Councilmember Chard, the Board entered into executive session to discuss litigation Cregg v Town of Gorham and to discuss possible property purchase.

At 10:19PM on the motion by Councilmember Glitch, seconded by Councilmember Chard, the Board returned to regular session.

No action was taken in executive session. Both motions carried unanimously. (5-0)

065-2017

10. Set Next Meeting Date – the next regular meeting of the Gorham Town Board will be on August 9, 2017 at 7pm at the Gorham Town Hall.

11. Adjournment - With no further business, on the motion by Councilmember Malcolm, seconded by Councilmember Glitch, the meeting was adjourned at 9:48pm.

Respectfully submitted,

Darby Perrotte
Town Clerk