

**VILLAGE OF GOSHEN
PLANNING BOARD
Work Session/Regular Meeting
June 21, 2011**

The work session/regular meeting of the Village of Goshen Planning Board was called to order at 7:30 p.m. on Tuesday, June 21, 2011 by Chair Jerome O'Donnell.

Present: Augustine DeRosa
Dominick Igneri
Rebecca Lafargue
Elaine McClung
Jerome O'Donnell, Chair

Also Present: Mike Donnelly, PB Attorney
Art Tully, PE Engineer

WORK SESSION REQUEST

Geri Corey, 28 St. James Place, #112-2-10, C-S/ADD, Proposed ice cream stand
(formerly A. Ahr's property)

Ms. Corey said she bought the Arthur Ahr building located at 28 St. James Place along the Heritage Trail and would like to put an ice cream stand there. It will be an outside walk-up stand with no seating inside, she said. Patrons will walk to the side of the building. There will be outdoor seating in the rear of the property, with fencing and a garden. She plans to put in an upstairs apartment.

Mr. Donnelly said that Mr. Ahr had an application before the PB for a refreshment stand on the property. He had obtained a side yard variance, had a public hearing in 2005 which was subsequently closed, but didn't have his plans reviewed by Wheldon Abt of the ADD. He never returned to the PB so the project never received approval. His variance has expired, Mr. Donnelly said. There is the issue of a fee in lieu of parking that was not resolved and the PB will have to look again at the parking issue. There is no on-site parking but the trail has parking. The use as an ice cream stand is permitted, as is the apartment which is permitted as an accessory use, he said.

Mr. Donnelly said this is a new applicant and a new use. It will warrant a public hearing unless the PB wants to use the 2005 public hearing. Ms. McClung said that the previous public hearing was six years ago and that a new public hearing should be held.

Mr. Tully said the PB will need an application from the new applicant and said that the minimum lot size is 5000 sq. ft., while this lot is 3300 sq. ft. He suggested that Ms. Corey have the previous engineer on Mr. Ahr's site plan, Lan Associates, update the site plan and contact him. Mr. Donnelly said the new application will have to go to Wheldon Abt for ADD review.

It was noted that a public hearing can't be set until there is an application but it was suggested that Ms. Corey could speak with the Village Building Inspector about getting a building permit for the interior work to be done.

Frank Zellner, 41 Prospect Avenue, #111-21-24, Proposed 16' x 24' addition to the home, R-1 zone. Burial ground and cemetery protection question.

Representing the applicant: Frank Zellner, applicant

Mr. Zellner said he wants to add a two-story addition to the front and rear of his house. There would be a large family room downstairs and bedrooms upstairs adding 18 by 24 feet, he said. Mr. Zellner said that the zoning requires 50 feet in the rear and he has 32 feet.

Mr. Zellner said there is a cemetery in the rear of his property. Village historian Ed Connor did some research on it and wrote a letter to the PB. Mr. Connor was present and told the PB that no deed has been filed with the County on the cemetery parcel but that it is a separate tax lot. On certain papers, it states it is Village property, he said. It is not registered with Orange County or the State of New York. He said he doesn't know if anyone is interred there. Mr. Zellner said there are no headstones visible.

Mr. Tully said that all development activities within 50 feet of a cemetery are subject to the review and approval of the PB and Mr. Zellner's property is within 50 feet so he can build within that 50 feet and be within Village Code. Mr. Donnelly said that the applicant needs an application for a site plan review.

Mr. Tully suggested the applicant change the name on the survey he presented from "Survey of the Property" to "Site Plan of the Property", include a bulk table showing the set back dimensions and show the reference that a distance of 32 feet was approved by the PB. It was suggested that the surveyor contact Mr. Tully to discuss what is needed.

Mr. Donnelly said the applicant will need to mail adjoining notices and that the application can be put on next month's agenda.

VOTE BY PROPER MOTION made by Mr. Igneri, seconded by Mr. DeRosa, the Village of Goshen Planning Board waives a public hearing on the application of Frank Zellner. Passed unanimously.

Ms. McClung asked Mr. Donnelly to write a letter to the Village Board apprising the Village that it owns a piece of property that should be staked and maintained.

Quick Chek, #115-1-4 & #119-2-1 & 2, D-S zone, Proposed retail store and gas station.

Representing the applicant: Dennis Caplicki, Esq.
Kevin Cahill

Mr. Caplicki said the applicant was present to provide the PB with a status report.

Mr. Cahill said that since his last appearance before the PB the proposal has not changed. It is to construct a 6924 sq. ft. convenience store with a canopy for nine fuel dispensers, four underground storage tanks and 62 parking stalls. The primary entrance will be off Connector Road with a designated left turn lane, a right turn lane for exiting and an entrance lane. He said that the property is in the flood plain and that the applicant plans to fill the flood plain but is excavating in and around the site and will provide more volume of flood storage on the site. He said the applicant is talking to FEMA about relocating the existing flood ways to the tributary of the Rio Grande and the Rio Grande. The applicant has retained Leonard Jackson as its consultant. The applicant is in front of FEMA now and expects to have everything addressed with FEMA by the end of 2011. If the applicant gets a negative declaration it will proceed with the DEC (Department of Environmental Conservation) in regard to the wetland buffers that it is requesting permits for, he said. "Verbally the DEC is on board with what we are looking to do here," Mr. Cahill said, "We think we will be able to achieve the permits that are required." He said they have received their first round of comments from the DOT (Department of Transportation) and now hope to obtain DOT approval before the end of 2011.

Mr. Cahill said that the Village ZBA has granted approvals for the variances needed for signage and he discussed the approved signage with the PB, showing photos of the signs. He said it is the same signage that is used at its Dolson Ave. and Route 211 stores in Middletown.

At this time we do not show proposed sidewalks along the North Connector Rd. but we do need to provide guide rails along there, he said.

Charles Olivio, the applicant's traffic engineer discussed the traffic analysis. He said the applicant is proposing a new left turn bay as you travel along the Connector Rd. and a new driveway along the North Connector Rd. that will allow for left-out and right-out separate turn lanes. There will be a widening of pavement in a southwesterly direction and a guide rail, he said. The DOT sees this as a connector road between ramps to a soon-to-be interstate and is not seeking to promote or encourage pedestrian traffic along the roadway by the construction of sidewalks along this frontage, Mr Olivio said. The DOT has concerns about putting in another traffic light because of the proximity of the existing traffic signal, he said.

Mr. Tully asked about the status of the DEC wetlands review. Mr. Cahill said the applicant needs a negative declaration before it can proceed with a formal application to the DEC.

Mr. Tully suggested that the PB consider retaining a traffic consultant to help in reviewing the traffic impacts, "to make sure we don't have any local issues" and also suggested the PB retain a landscape architect. He provided names of two professionals.

VOTE BY PROPER MOTION made by Mr. Igneri, seconded by Mr. DeRosa, the Village of Goshen Planning Board agrees to retain John Collins as a traffic consultant and Karen Arent as landscape architect to do the SEQRA review for the PB on the application of Quick Chek. Passed unanimously.

Mr. Tully said that a major issue concerns a 16" village water main that crosses underneath Route 17 heading toward the Good Time Track. He said that there is an 8" water main tapped into the 16" main that comes down the roadway and traverses through the proposed site. It is located in the shoulder of the roadway which is where the applicant will be doing grading and earthwork. "We need to find the exact location of that water main to ensure it is not in the way of the proposed construction or if it is, it will need to be re-located, the sooner the better," Mr. Tully said. He said that the applicant will have to do ground penetrating radar testing to locate the main and that it will have to be coordinated with the DPW.

Mr. Donnelly told the PB that in February it issued a Notice of Intent to be Lead Agency and that it has not been challenged so the PB can consider it finalized. There are further issues to be resolved before the PB can issue a declaration of significance. Mr. Tully said that some of the agencies that will have to give approvals, such as the DEC, don't want to give specific review comments unless the PB gives a negative declaration so the PB will have to get comfortable with the project so that it is willing to give a negative declaration in anticipation of the other agencies giving approvals.

Mr. O'Donnell asked Mr. Cahill if the applicant plans to serve tractor trailers. "We are not trying to make this a truckstop, our business model doesn't support fueling tractor trailers. We are not fueling tractor trailers, we will fill box trucks or other trucks," he said. The canopy, he said, is 14-1/2 feet at its lowest, for the minimum clearance.

Mr. Donnelly said that adjoiner notices need to be sent by the applicant.

Unico Design Group, LLC – C-S/ADD 107 West Main St.

Letter of request from T.A. Mastrantoni for two year extension on approval of office/retail building.

Representing the applicant: Steve Esposito

Mr. Esposito said the applicant wants to start construction next spring.

Mr. Donnelly said that approval was granted the project in September of 2009 and the site plan was signed. The conditions have been satisfied but construction was to begin in

one year and hasn't begun. He said the anticipated completion date can be extended but that the variances that were granted March 14, 2007 expired March 14, 2008. The PB will have to first ask the applicant to get the variances extended before it can consider approving a two-year extension on its approval. The applicant was directed to first go to the ZBA and then return to the PB.

Olde Yorke Subdivision, #112-5-1.2 & 3, R-1 zoning district. 18-lot residential subdivision located on South Church St.

Representing the applicant: Mike Walker and Steve Esposito

Mr. Esposito said that the application is on the agenda for preliminary subdivision approval.

Mr. Tully said that the retention basin and the sidewalks need to be discussed. He said that the basin as proposed is a traditional retention basin designed to have water in it all the time. It is located on two lots in the subdivision. The Village DPW is not interested in maintaining the retention basin that will serve the small subdivision because it is a use of village resources that will take time and money away from other things that should be done for the general population. The applicant now proposes that it be owned and maintained by the two lots owners, but Mr. Tully said he doesn't believe homeowners make good retention basin managers. Consequently, Mr. Tully said he is asking that the applicant change the design of the retention basin and possibly eliminate it all together and put something else in its place. "It needs to be looked at in a different way," Mr. Tully said, adding that there are a lot of options that he wants to talk over with the applicant's engineer.

Mr. Tully said he didn't think the retention basin issue needs to hold up the PB's consideration of preliminary approval; that it is something that can be resolved between preliminary and final approval.

Mr. Tully said he has walked the site with Mike Nuzzolese of the Village DPW and determined that it will be very difficult to put sidewalks off site that lead downtown. There are issues with crossing the road, with topography in some areas and problems where some property owners have developed their front yards with lawns almost to the pavement. The applicant shows sidewalks on site as required and they are willing to provide an area for children to wait for the bus at the intersection if necessary, he said, but the PB will have to think about what it wants to do with sidewalks.

The street lighting will be the standard lighting that O&R will put in and maintain, said Mr. Tully. Mr. Nuzzolese prefers not to use the specialty lights used at Harness Estates which are not maintained by the utility company, but by the Village, he said.

Mr. Donnelly said that a condition of preliminary approval can be that a satisfactory storm water management plan will be prepared prior to final approval. Mr. Tully suggested that the PB continue to have input and require the applicant to return to the PB to give an update on the storm water management plans.

Mr. Esposito said that while the applicant can't make offsite improvements, the applicant can, in lieu of on-site sidewalks, make a financial contribution to the Village if it wants to put sidewalks somewhere off the applicant's property.

Mr. Donnelly said that the Village can require applicants to put sidewalks in front of their properties and that it would be a policy decision. Ms. McClung suggested that the PB talk to the Village Board about a general plan for sidewalks in the Village.

It was noted that the applicant needs preliminary approval before moving forward to other agencies for review. Mr. Walker said his goal is to start construction in a year.

Mr. Donnelly listed some of the conditions that would be placed on a preliminary approval. He said that there will have to be a signoff letter from PB engineer Art Tully on the issues raised in his review letter before a final approval can be signed. He said the sidewalk issue will have to be resolved to the satisfaction of the Village. He said all utilities will have to be underground and that there will have to be a revised storm water plan that satisfies the concerns raised in Mr. Tully's letter of 6-21-11. He said the applicant will have to come back within two months of the preliminary approval to update the PB in regards to the storm water plans and that prior to final approval the applicant will approach the VB to discuss the possibilities and benefits of an assessment district and that, in the event the VB is not interested, there will have to be, at the least, an easement giving the Village the authority to enter into whatever drainage structure there may be, to maintain, if necessary, but not impose the obligation.

VOTE BY PROPER MOTION made by Ms. McClung, seconded by Ms. Lafargue, the Village of Goshen Planning Board grants preliminary approval with conditions to the application of Olde Yorke Subdivision. Passed unanimously.

Beverage Plus #112-12-6, C-S/ADD zoning district

Representing the applicant: Steve Esposito

Mr. Esposito said he is appearing before the PB again with a new plan. He noted that the site is in the 100 year flood plain and "for us to build a new building we must be 2 ft. above the flood elevation (430 ft.) and the site is at 427 ft. so a new building would have to be 5 ft. above the existing grade. He said that would be "very tough to do and maintain the existing streetscape."

The plan is now to demolish nearly three-quarters of the front building along Greenwich Avenue, keeping about 900 sq. ft. of the masonry building where the bagel store is now located. He said it is a pre-existing building and can be self-financed and can get grandfathered in, in terms of the flood elevation. He said the applicant will keep the steel building in the rear of the property which is also a pre-existing non-complying building that can be self-financed. The applicant will maintain the two existing curb cuts but will redo the asphalt paving and the landscaping. A streetscape, as discussed at a previous meeting, will be started. He said the applicant will be asking for a waiver of the side yard setback to zero.

Mr. Donnelly said that when changes are made to a non-complying building there has to be an analysis of what uses were there in the past (in this case 1998), what the uses will be and whether there will be a greater demand for parking. Mr. Esposito said he is prepared to do the impact analysis. Mr. Donnelly said that the applicant can enlarge the building as long as no other non-compliance comes into play.

Mr. Esposito said there is no work being proposed in the state's right-of-way so there will be no DOT involvement. He said the applicant is proposing that the entrances will both be "ins and outs" as they currently are.

Mr. Esposito said he will be presenting a new set of drawings with revisions and comments from Wheldon Abt at his next appearance before the PB.

MINUTES - The Minutes of the Planning Board Meeting of May 24, 2011 were approved.

ADJOURNMENT - The Village of Goshen Planning Board meeting adjourned at 9:50 p.m.

