

**VILLAGE OF GOSHEN
PLANNING BOARD
August 28, 2018**

The work session/regular meeting of the Village of Goshen Planning Board was called to order at 7:30 p.m. on August 28, 2018 in Village Hall by Ms. Elaine McClung.

Members present: Elaine McClung
Adam Boese
Molly O'Donnell

Members Absent: Chair Scott Wohl
Michael Torelli

Also present: Michael Donnelly, Esq., PB Attorney
Art Tully, Engineer, Lanc and Tully
Ted Lewis, Building Inspector

In the absence of Chairman Wohl, Ms. McClung chaired and opened the meeting with the Pledge of Allegiance.

APPROVAL OF MINUTES

VOTE BY PROPER MOTION made by Mr. Boese seconded by Ms. O'Donnell, the Village of Goshen Planning Board moved to adopt the minutes of the May 22, 2018 meeting. Motion carried 3-0.

VOTE BY PROPER MOTION made by Mr. Boese seconded by Ms. O'Donnell, the Village of Goshen Planning Board moved to adopt the minutes of the July 24, 2018 meeting. Motion carried 3-0.

APPLICANTS BEFORE THE BOARD

GOSHEN PUBLIC LIBRARY & HISTORICAL SOCIETY, Discussion on color changes in the A.D.D District

At last month's meeting the Planning Board accepted the color changes but the building inspector asked for another brief discussion for clarification. He didn't think the board saw the exact color and wanted everyone to be in concert.

Ms. McClung displayed the exact color tiles and Mr. Lewis stated it is strictly for the awnings.

The board members present were okay with the color tiles displayed.

HARNESS ESTATES, Route 207/Murray Avenue, #127-2-32, 127-5-10, R-R Zoning District

Representing the Applicant: Thomas Olley, PE
Marcia Jacobowitz, Esq.

Last November the project was before the board for an update. Since that time there have been water and sewer approvals from the health department and the DEC. There has been a subdivision approval from the health department for the remaining 34 lots of the project. There will be seven lots along Murray Avenue North which was approved in Phase I of the project. There are two new roads, Cain Court, which will have 16 lots and Mozella Court which will have nine lots.

Tonight the project is back before the board with all approvals and is seeking final approval.

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Mr. Donnelly stated there was a stipulation of settlement in years past and that is essentially the layout that exists now. All of the project has received preliminary subdivision approval. There are three phases. Phase III is sometimes called 2B. Phases I and II have received final subdivision approval. This is the final phase of the project and the applicant wishes to move forward and receive final approval for this phase to complete the project.

Mr. Donnelly left the board with a resolution based upon the preliminary subdivision resolution for this phase. There was a meeting at Lanc & Tully's office last week where Dave Donovan, DPW and the applicant's representative were present, and a list of clarifications were discussed. There were offers of dedication, easement documents, deeds for certain parcels to be given to the Village, etc., discussed.

Mr. Donnelly stated Mr. Tully was comfortable with the conditional final subdivision approval and he will hold the necessary meetings with the applicant's representatives and will work with the DPW chief to make sure all the technical issues are resolved and will give the Planning Board a letter to that effect. The plans cannot be signed until the Planning Board has that letter and the other conditions of the resolution are satisfied.

Page five of the resolution lists the specific conditions. Mr. Donnelly read the specific comments from the resolution and denoted any changes.

Mr. Tully stated all the major engineering comments have been met. It is down to offers of dedication and deed descriptions. There have been several meetings over the past months with the applicant and the DPW. The engineering issues have been resolved.

Ms. Jacobowitz stated in the heading the phase is referred to as 2B. Mr. Donnelly stated he will put in a footnote clarifying formerly known as Phase III.

VOTE BY PROPER MOTION made by Mr. Boese, seconded by Ms. O'Donnell, the Village of Goshen Planning Board moved to approve the resolution with the changes outlined. Motion carried 3-0.

SOUTHSIDE COMMERCE CENTER, #121-1-31 V.O.G., #13-1-5.11 T.O.G., comment letter from K. O'Donnell, Village Planner

Representing the Applicant: Lawrence Torro, PE, Civiltec Engineering

This is a project previously seen before the board under a different engineer. Civiltec Engineering & Surveying has taken this project over. The last time the project was before the board was in November of 2017.

Since that time the plans have been modified. The building is now set into the slope of the hill so the site is balanced. The front of the building will be exposed two stories for warehouse facilities. The back will have the third floor exposed for office facilities.

Mr. Tully's office submitted comments on this application. An expanded EAF is being requested.

Mr. Tully stated that even though the plan is changing the issues are still the same. The scope generated last time is still appropriate for this application. There are technical comments specific to this application. Tonight's presentation is simply for the board's informational purposes to note the change in consultants and the change in the plan. The issues of drainage, access, water supply is still the same. The applicant needs to continue on with their environmental review.

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Mr. Torro stated it was also brought to his attention there are some issues associated with the storm water pond. There is a shared facility that needs to be worked out with the other professionals involved in those projects.

Mr. Tully stated that is before the board as well. There are overlapping utility easements. There needs to be coordination between the various applicants and their consultants.

The board does not need to take any action tonight.

S & N REAL ESTATE (FORMERLY MURPHY SUBDIVISION), #124-2-2.16, Withdrawn

Mr. Lewis stated they withdrew from the meeting.

Mr. Tully stated the applicant thought they had to appear before the Planning Board but they need to modify the location of the sidewalk along Scotchtown Avenue from Horseshoe Court to where the crosswalk on Scotchtown Avenue exists now. There is a problem in that there are utilities, drainage, waterlines, and some fiber optics underneath. It appears they will have to put the sidewalk on the school property to avoid those utilities. The school will have to be part of the new design. They are waiting to hear if the school approves and if they do then a technical review will be needed. It does not change what the Planning Board approved which is to connect the sidewalks from Horseshoe Court over to the crosswalk.

No action is needed by the board tonight.

VILLAGE PLACE, #111-10-17.2 C.S. w/PAC Amended Site Plan

Representing the Applicant:

Steve Esposito, RLA
Jay Myrow, Esq.
Mark Siemers, P.E.
Larry Pell, Architect

Mr. Esposito stated the project has been before the board several times. It has been before the Zoning Board of Appeals twice. There was a review letter from Lanc & Tully which has been responded to and a resubmission made. That is what is before the board today. There is a comment letter from Lanc & Tully which is mostly technical in nature.

Mr. Esposito stated one of the things the applicant did do at the request of the board is address the issue of the balconies on the upstairs apartments. With balconies facing out on to West Main Street it would be difficult to control what tenants placed outside. The applicant amended the plans to remove the balconies in favor of a bay window with no outside access to West Main Street. The façade was redesigned to look similar to the buildings across the street. The streetscape design is meant to mimic Lawyer's Row yet the access will be from the "back" where the parking is located.

Mr. Tully stated his first comment is whether the board is satisfied with that change. He stated the applicant also lowered the fence from four feet to three feet in the front to soften that side of the building to make it look more consistent with the rest of the street.

Mr. Tully stated he was concerned that the property is located in several different tax map parcels. It was suggested to have it combined into one tax map parcel. The applicant was reluctant to do that. The concern is that a parcel could be sold off. A compromise is to have certain deed restrictions.

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Mr. Donnelly stated he talked to Jay Myrow, the project's attorney, and the problem with consolidating the lots is the need for financing on a portion of a lot. The applicant is willing to record a declaration that will announce that it has to continue to operate as a single-site plan. The language can be worked out. Mr. Myrow stated it is acceptable to his client.

Mr. Tully stated another comment has to do with the design of the retaining wall in the parking lot. He thinks the details of the retaining wall will encroach on the parking lot to the extent that it will reduce the amount of area left for parking cars. The structural engineer will be consulted.

Mr. Tully stated he is also concerned with the site distance of the fence together with the landscaping.

Ms. O'Donnell stated her concern was not just the balcony, but the front yards as well. Whether it was called the back or the front, her concern still stands with what tenants will do with the West Main yard area. She doesn't want to see grills and bicycles facing out on West Main Street.

Mr. Donnelly stated there could be bylaws with the managing agent that will be allowed to be enforceable by the Village to restrict what can be placed in the yards.

Mr. Esposito stated the applicant has no intention to allow tenants to place personal belongings in the yard area. He stated the plan was to make the building pedestrian friendly and walkable. Their thought is the fence defines the area to create an illusion of privacy and perceived safety for the ground-floor tenants from the street itself.

Mr. Donnelly stated perhaps the applicant could devise restrictions that would be acceptable. Mr. Myrow stated they would devise something that says from the building to West Main Street the yards are not for storage or recreational use. It is a common area not to be occupied. Mr. Esposito stated it could be put in as a map note enforceable by the building inspector. Mr. Myrow stated he would be happy to put it on the site plan.

Mr. Esposito requested that the board adopt a Negative Declaration, issue a Conditional Final Approval and waive a public hearing.

The board decided that they did not wish to waive the public hearing.

A public hearing will be set on this application for September 25, 2018 at 7:30 p.m.

Mr. Donnelly stated he will have a resolution ready for the board at that time.

VOTE BY PROPER MOTION made by Mr. Boese, seconded by Ms. O'Donnell, the Village of Goshen Planning Board moved to adopt a Negative Declaration on this project and set a public hearing for September 25, 2018 at 7:30 p.m. Motion carried 3-0.

FIDDLER'S GREEN, #115-1-5, R-3

Representing the Applicant:

Steve Esposito, RLA
Jay Myrow, Esq.
Mark Siemers, P.E.
Barbara George

Mr. Myrow stated he was before the board last month. Some information was provided that was never circulated to the board. Mr. Esposito stated it was resubmitted as a hard copy and digital submission and then submitted additional information. One is a virtual tour of the site along the

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Heritage Trail and also an explanation of why this information was collected to support the photo simulations the board originally requested in leaf-off conditions.

Ms. O'Donnell and Mr. Boese stated they did not need to see anything further. They reviewed the submission.

Mr. Myrow stated he believes the issue is whether or not the applicant's submission makes the board comfortable that there are no adverse impacts in SEQRA and move along in the process.

Mr. Esposito stated he received a letter from the board that Mr. Tully prepared stating for the applicant to not do any more changes until the board had an opportunity to review the visuals. Mr. Myrow stated he is ready to move forward. He understands they need to address Mr. Tully's technical comments. He believes the applicant has given the board an exhaustive amount of visual data to demonstrate there is no adverse impact.

Mr. Donnelly stated the visual is just one piece of the comparative SEQRA analysis. There were other issues as well that need to be taken care of in order to clear up SEQRA. Mr. Donnelly stated what the applicant wants to know tonight is if the visual analysis that the board has is satisfactory and if not, what else needs to be done to satisfy the board.

Ms. O'Donnell stated she is very concerned with the building height. She believes it will be seen from many vantage points in the Village. She thinks it will definitely change the landscape drastically at the height the applicant is proposing even with the reduction of the roof. She is uncomfortable with it.

Mr. Myrow stated he is happy to address that but needs the board to point out exactly where in the data that has been provided the concern lies. He can't just take the general statement that the board doesn't like the height of the building.

Mr. Tully stated he doesn't believe it's a general statement. He doesn't agree that the balloon test was sufficient. He doesn't believe it was done well or exhaustive as it was termed. He stated he was at the site three times and all three times there were no balloons flying. He thinks it was limited information. Mr. Tully stated it's a conditional use, not a permitted use. There are conditions that must be met in the code that relate to the development of the property, the orderly development impacts on the neighboring properties, water, sewer, drainage, etc. Mr. Tully stated the board is focused on whether this conditional use is in congress with the other residential uses in the district or area.

Mr. Myrow stated it is a conditional use that is permitted so long as it complies with the zoning conditions. He doesn't know of any that haven't been met. Mr. Tully stated the conditions that are in discussion whether the applicant has met them or not is the one that talks about a use that is proposed to be situated and will not be detrimental to the orderly development of the adjacent properties. Mr. Myrow stated that has been determined because it is permitted in the zoning. Mr. Tully and Mr. Myrow discussed this issue at length.

Mr. Myrow stated that if the board makes a finding of an adverse impact, they have to tell the applicant what it is because they have the right to change it or provide more information to demonstrate it is not an adverse impact.

Mr. Donnelly stated the applicant is asking if the analysis is not enough for the board to make a decision, tell them what they need to do next for the analysis to be complete to make a later decision.

Mr. Tully, Donnelly, Esposito and Myrow opined about the balloon test. It was argued whether or not to withdraw the balloon test as a data. The applicant said they would not withdraw it.

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Mr. Boese stated he had a very hard time picturing these big buildings. He stated he went around the Village trying to find a big building like this to compare it to and cannot find any. He looked at the firehouse on Green Street which is a big building and the proposed building is almost 50 percent bigger than that. He stated this is a big, bulky development that is going into a cherished part of our community. The code states things about character and harmony. The renderings depict very sharp looking buildings. Standing alone in a drawing they look very nice. But turning around and placing them in the community in which they are to go, where there are only 2.5 story homes, these massive buildings. It is not showing as harmonious in his opinion. He stated the buildings are really high and visually imposing. His opinion is it is too much building for the Village.

Mr. Donnelly asked Mr. Boese if he was satisfied with the visual analysis to make a decision in the future. Mr. Boese stated what he was having a hard time with as a Planning Board member is there is nothing that clearly says the height is no good. He doesn't know how to ask for that information to direct the applicant other than to say it is too much building. He felt the drone footage showed buildings that are too high for the Village. He feels like he has enough information now.

Ms. McClung stated the visuals that have been provided are enough for her to have an opinion. Because it's a conditional use, she feels it is too massive and looming. Just in speaking of the visual part of the SEQRA analysis it's too big, looming, and too massive in her opinion.

Mr. Donnelly stated the board does not need any more information regarding the visual analysis portion of SEQRA.

Mr. Myrow stated that he did see the point in coming back over the next several months because the applicant would have to change the entire design of the building. They would have to go to a flat roof and come in without any variances required. He would increase it by one more building and increase impervious surface parking. Ms. McClung stated a flat roof is not in character with the surrounding area. Mr. Esposito stated there are other site constraints that they have to deal with.

Mr. Myrow stated he would be happy to bring an alternative plan back with the original plan at the next meeting for the board's review.

V.B., Work session request, zone change request, #119-1-3, 15 Matthews Street, D-S Zone

Representing the Applicant: Tom Depuy, P.E.

Mr. Depuy stated his client has been before the Village Board requesting a zone ordinance change to allow a fitness center in the D-S Zone. It is the space of the first floor of the building that TD Bank used to occupy.

The Village Board has referred the application to the Planning Board.

Mr. Donnelly stated there are a series of factors that the code requires the board to report on.

Mr. Donnelly read to the board the factors for which they must contemplate. Mr. Tully stated his main comment would be that the zone change would be for all of the D-S Zone, not just this location. This use is allowed as a conditional use in the C-S Zone. There are zones in the Village that allow this as a conditional use.

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The Village Board is looking for a comment from the Planning Board before they make a decision.

Mr. Donnelly stated it is a slight modification of the overall use that is not overly dramatic, but it is distinct from the approach that made the D-S different from the C-S. An indirect change to consider would be if parking patterns would be different than the rest of the zone. Will they be operating 24 hours a day? Is the character of this use so different from what happens in the D-S zone? Ms. McClung felt this item is important because the gym on St. John's street has people parking in the Town Hall lot and running in the streets. There are no sidewalks on Matthews Street. She felt this issue needs to be addressed in the letter to the Village Board.

Mr. Donnelly stated he would draft a letter to the Village Board calling attention to the items the Planning Board had concerns with.

Mr. Tully stated this will require site plan approval so it will come back to the Planning Board for an approval for the use of a gym in that building if the zoning change is granted by the Village Board.

YIDEL REALTY WAREHOUSE, #117-1-1.2 & 3, & 118-1-1, Copy of OC Dept. of Planning letter received 8/15/2018 and Copy of NYS DOT letter received 8/6/2018

Mr. Tully stated his office has recused himself from this application and Jim Farr is acting as special consultant on this application. The project is in its early stages and Mr. Farr has made some comments in regard to basic information on the plan. It won't be back before the board until they advance the plans.

BOARD COMMENT

Ms. McClung stated a discussion item may be whether or not the Planning Board has a policy on allowing public comment. In past years public comment has only been allowed at public hearings and if the board wished to change that and allow public comment at other times, then it would need to establish timeframes and parameters for doing so. She asked the board members if they would give the idea some thought to be discussed at a later date with a full board. She said the main reason for discussing it should be for consistency and fairness to the public.

Mr. Donnelly stated for due process to applicants, if they are not on an agenda and the public comes out and addresses the project without the applicant present, there could be issues. Generally speaking, planning boards don't allow comments on applications that are not on the agenda that night of a public hearing. To go outside that and allow comments on agenda items outside of a public hearing would be the board's choice. However, in the experience of the attorney and engineer when this is allowed meetings can go on for many hours, well into the early morning hours because the comments never stop.

Mr. Donnelly stated to recognize the difference between elected boards, such as Village and Town Boards and School boards versus a Planning Boards which have a very different role. Planning board members are not permitted to formulate an opinion or make a decision unless and until the moment comes to make a vote. They are not permitted to speak to people in the supermarket about projects unlike elected officials would who are expected to learn from the public what their opinions on matters are and then represent them.

It will be discussed when there is a full board present.

ADJOURNMENT

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VOTE BY PROPER MOTION made by Ms. O'Donnell, seconded by Mr. Boese, the Village of Goshen Planning Board moved adjourned the meeting at 9:06 p.m.
Motion carried 3-0.

Next scheduled meeting of the Planning Board is September 25, 2018.

Scott Wohl, Chair

Notes prepared by Tanya McPhee