

TOWN OF GOSHEN
PLANNING BOARD
APPROVED MINUTES
SITE VISIT AND PUBLIC HEARING ON STEPHANS' DRIVEWAY PERMIT APPEAL
AUGUST 12, 2010

PURPOSE OF MEETING: The planning board met to consider an appeal by David and Patricia Stephan with regard to a decision by the Goshen Highway Department to deny their application for a driveway permit. The proposed driveway permit would be to create an access from Lear Hill Road to a back lot owned by Troy Hill Holdings via a right-of-way (ROW) across the Stephans' property. Troy Hill Holdings currently has a right-of-way to their back lot via the Stephan's existing residential driveway. The purpose of the proposed new driveway would be to transfer this ROW to a new location as jointly agreed to by the Stephans and Troy Hill Holdings.

MEMBERS PRESENT: Chairman Allen Howe, Vice Chairman John Wirkkala, Rich Moen, alternate Robert Bell, and Select Board alternate representative Clark Wamsley.

OTHERS PRESENT: Those who attended both the site visit and the public hearing: David and Patricia Stephan; Victor St. Pierre, President of Five Eagles Design LLC; Atty. Michael Fuerst of Buckley & Zopf; Gregg Millette, Goshen Road Co-Agent; and Gary and Linda Janicke. Those who attended only the site visit: Jeff Downing, Goshen Police Officer and Dorothy Field. Those who attended only the public hearing: Dan Peterson and Fred and Nancy McDonough.

SITE VISIT

The site visit took place from approximately 6:30 to 7:00 p.m. Participants gathered at the lower end of the Stephans' driveway on Lear Hill Road. Chairman Howe made some brief introductory remarks. He emphasized that all detailed discussion of the driveway proposal would take place in the hearing following the site visit. Mr. Howe asked Mr. St. Pierre to lead the site visit. Mr. St. Pierre asked everyone to walk up the hill from the Stephans's driveway to the proposed new driveway. The proposed driveway was flagged and markers had been placed at 250-foot and 300-foot distances in each direction from the proposed driveway. Mr. Fuerst and Mr. Stephan stood at the 250-foot markers so that board members could have a first-hand look at the required sight distances for this location, which has a posted speed limit of 25 mph.

Mr. Millette pointed out the trees that the Highway Department had cited as the reason for its rejection of the Stephans' application. He also asked the board to observe a berm that was located across from the Stephans' current driveway and which he said somewhat diminished the sight in downhill direction.

Officer Downing, at Mr. Howe's request, drove the road in both directions at the posted speed of 25 mph.

The board concluded its site visit and returned to the Goshen Town Hall for the public hearing.

PUBLIC HEARING

Mr. Howe introduced the board and announced that Robert Bell would be a voting member for

this hearing in the absence of member Jonathan Purick. He also announced that Select Board representative Ed Anderson had recused himself from this hearing and that Select Board Chairman Clark Wamsley would be the Select Board's representative.

Mr. Howe clarified that the application was for service to the back lot, which is identified as Tax Map 204, Lot 12. The Stephans' home lot is Tax Map 204, Lot 13.

Mr. Howe reported having received a letter in support of the Stephans' appeal from Virginia Schendler. Mr. Howe asked Mr. Millette if he wished to add any detail to the Highway Department rejection letter, which had been signed by Road Co-Agent Jesse Johnson. Mr. Millette emphasized that the Highway Department had rejected the Stephans' proposal for safety reasons. The Department felt that even if adequate sight distance existed, removing the apple tree and the oak tree across the road could provide a better view. He also felt that lowering the hump across from the Stephans' driveway could improve sight. Furthermore, he said it was his opinion, as someone with experience driving logging trucks, that it would be impossible for trucks entering the roadway to not cross the center line.

Mr. Howe at this point asked Mr. St. Pierre to provide his perspective on the safety issues. Mr. St. Pierre said that lowering the berm would help, but that adequate sight distance was already in existence. He said that the proposed driveway provided a ROW access that was much better than what would be possible using the Stephans' current driveway. The proposed driveway is located at the top of a rise and what he called the physics of uphill travel make this a better spot. Anyone proceeding up hill would have a much better chance of stopping if they were to encounter a turning logging truck than they would have if they were traveling down hill and encountered a logging truck using the Stephans' existing driveway.

Mr. Howe asked Mr. St. Pierre to review his qualifications for laying out a driveway of this type. Mr. St. Pierre said that he was qualified by work experience rather than by degree. He did have some safety education at Keene State College but that his licenses are in septic design and in Energy Star home construction.

Mr. Moen expressed concern about how snow buildup might affect visibility in the winter. He also expressed his concern about the turning radius.

Mr. Bell asked if anyone knew whether the driveway would be used for year-round or winter-only logging operations. Atty. Fuerst and Mr. St. Pierre said that they had no idea what the future use might be.

Atty. Fuerst said that he believed that the board was overly concerned with large trucks and that the board should remember that this was a deeded ROW that had existed since 1952. It was his opinion that, if anything, the new driveway had been overly designed. He wanted the board to know that another access to the back lot exists. The scope of what the ROW might be used for was not indicated, but a presumption was logging.

Mr. Howe said that logging had been mentioned on the application. He also said that he had yet to hear anything that convinced him that vehicles wouldn't cross the center line. He handed out

what he referred to as a turning template document that he had taken from a NH DOT web site; this was for buses and WB-50 design vehicles (tractor-trailers). Mr. Howe had created a diagram of his own, which he did not hand out, in which he had tried to depict and to better understand turning radius situations. At this point he handed out copies of the driveway entrance design that NS&G had prepared for its proposed excavation project at the so-called “Anderson” site in Goshen. This was presented as an example of a site on Lear Hill Road that was recently proposed for use by large vehicles.

Mr. Fuerst told the board that the Stephans’ proposed driveway was not for commercial use. Mr. Howe said that he still had a safety concern. He asked Mr. St. Pierre what radius he had designed in his driveway. Mr. St. Pierre said that he had supplied all that the Goshen driveway regulations require, and that turning radius was not something that he had addressed. He could, however, provide such information with an engineer’s stamp if the board requested it. Mr. Howe said that this would be desirable. He also said that a stop sign might be something that board members would want to think about.

Mr. Fuerst asked the board to remember that what they were asked to permit was not road, but a ROW. This ROW was to satisfy a conjectural use. The ROW was not a new use and it had existed for over 50 years. Mr. Moen again expressed concern for safety and said that the planning board’s role was to ensure the greatest safety in driveway design.

Lear Hill resident Fred McDonough said that the new proposal made no real difference to him but that he hoped that the Stephans’ proposal would be approved.

Mr. Wirkkala expressed his opinion that the new proposal was better than the Stephans’ existing driveway. He thought that there were many logging operations in the community that needed temporary driveways and that for the most part these should be accommodated. He thought that the current hearing was an unusual occurrence in this regard, and hoped that the board would not be bogged down with consideration of potential temporary uses. He hoped that the applicant could provide the board with information that would satisfy remaining safety concerns and that the board would approve the proposal.

Dan Peterson expressed the opinion that permitting the new driveway would be a bonus for the community. It was his opinion that the board was excessively concerned with the issue of crossing the center line. He said that if a turning radius was not part of the driveway regulations it should not be used as a reason to delay approval. It was his strong opinion that the board should be approving the driveway tonight. Mr. McDonough said that he had property in Newport that was used for logging purposes and he was not required to have a stop sign.

Mr. Howe quoted from an opinion that he had received from Town Attorney H. Bernard Waugh, Jr. Mr. Howe had asked Mr. Waugh a series of questions about what actions the board might take to best ensure road safety. Mr. Waugh’s response was, in part, as follows:

“NONE of the types of conditions you mentioned is categorically outside your jurisdiction to impose. As I’m sure you recognize, RSA 236:13 is a statute that basically gives the same powers to towns as the state DOT has, and of course the state often

requires traffic lights, clearing, re-grading, etc., all as a condition of driveway approval.”

Mr. Wamsley concurred that the board needed to be aware of legal issues.

Mr. Howe said that safety concerns were legitimate. He suggested that the board approve the driveway tonight, contingent on receipt from Mr. St. Pierre by the board’s August 31st meeting, of a turning radius diagram with an engineer’s stamp that demonstrates that logging-type trucks can exit and turn right without crossing the center line on Lear Hill Road. Board members and participants nodded their agreement with this suggestion, and Mr. Wirkkala made a motion to this effect. Mr. Moen seconded the motion and the motion passed unanimously without further discussion.

The hearing concluded at approximately 8:30.

Respectfully submitted,
John C. Wirkkala,
Vice Chairman