

**Town of Gorham**  
**Planning Board Minutes**  
**May 22, 2014**

**Members Present:** Mike Guay (Chair) Wayne Flynn (Vice Chair), Jeff Schall (Selectmen's Rep), Reuben Rajala and Earl McGillicuddy, Dan Buteau (arrived at 7:30), Mike Waddell (arrived @ 8:00)

**Members Excused:** Barney Valliere

**Members of the Public Present:** John Scarinza (Code Enforcement), Robin Frost (Town Manager), Allen Pike, Ron Dube, Laurier Letarte, Mark Taillon, Clermont & Gracienne Drouin and Burke York (York Land Services)

**Call to order:** The meeting was called to order at 7:06 by Chairman Guay

In the absence of Barney Valliere, the Chairman appointed Reuben Rajala as a full voting member in his place.

**Acceptance of Minutes of April 17, 2014:** On a motion from Wayne Flynn with a second from Jeff Schall, the board voted to approve the minutes as presented with all members voting in favor except Earl McGillicuddy who abstained.

**New Business:** Burke York asked the Chairman if they could change the order of the agenda as several of the people present were there for new business. The board agreed to take new business first.

**Site Plan Amendment for Drouin** – Burke York presented preliminary plans for an amendment to a site plan approved on October 11, 2012 (Case #05-2012). The assessing office received calls from abutters with concerns with the Mobile Home on Mill Street that was part of the site plan approval. The issue is that the board approved a plan that would raise the MH on Mill Street approximately 4 feet above street level making it so the neighbors would be looking at a home across the street raised up in the air and it would look out of place with the neighborhood. Burke explained that the original plan two years ago was to continue an existing stone wall on Mill Street to Libby Street and raise the level of the land up to meet the existing MH park making it all contained as one park. At that time, the board had concerns with the engineering of the wall. Burke says they were unable to find an engineer who would sign off on a loose rock wall. Therefore, the plan evolved to move one of the MH's down onto Mill Street which would eliminate the requirement for a 12' wall. The slope of land from the existing park on Libby Street to the level of Mill Street required a rip-rap wall then a 4' retaining wall to a terrace and another 4' retaining wall dropping down to Mill Street which is the plan that was approved. Once construction began, the neighbors began to see how it would look and had concerns with it. Burke submitted pictures to show the board the street view from Mill Street (Photos 1-3 show current construction, Photo 4 shows an existing wall with a fence at the top which is 12' higher than Mill Street, Photo 5 shows an existing wall in the same vicinity that has been there for many years). Burke explained that Photo #4 is what

they would like to amend the current approval to match. It is more appealing to the abutters, it would contain the MH park on one level and the homes on Mill Street would not be diminished by having the MH across the street raised on a platform. It would not allow for any additional MH's, would eliminate the requirement for septic pumps for the MH on Mill Street and would not change the approved Eden Drive configuration. Allen Pike who is an abutter stated he would prefer to see the plan amended and had no safety concerns with the construction of the wall. He also felt the change would benefit the neighborhood. Ron Dube, who is also an abutter, felt that aesthetically the amendment would be more appealing to look out his living room window at a rock wall as opposed to a MH on a pedestal. Mark Taillon who has been a resident of that area since 1993, also felt that a continuation of the existing rock wall would be better than having one MH on the lower level. Burke explained that there is an existing rock wall that was behind an old barn that was razed and has been holding back 25' of earth for many years with no issues. John Scarinza was concerned that if the board did not require an Engineers stamp, even though Don Doucette is good at what he does, John doesn't have the expertise to make a judgment call on this wall. Mike Guay questioned if the board does not require an Engineers stamp, what would happen if the MH ended up in Mill Street. Who would be responsible? Earl McGillicuddy felt that the board needed a designed wall showing drainage behind it. He also had concerns with the location of the water lines in that area. John Scarinza will check with the Water & Sewer Department about this. Allen Pike questioned how long an Engineers stamp is really good for? He pointed out the engineered concrete walls at the old Shaw's plaza. Robin Frost agreed that Clermont does a great job with his projects but that we need to protect the Town and felt that an engineered design was needed. Reuben Rajala stated that there were a lot of stone walls that have been around for 150 – 200 years and as long as they were done right they would last. He is inclined to extend the existing wall in the same fashion. The remnants of the stone wall behind the barn are still there and will add stability to the new wall. Earl McGillicuddy has concerns that not requiring this wall to be engineered would set precedence for future walls. Wayne Flynn agreed that an engineered wall was needed to protect the Town. Burke York felt that approximately \$100,000 for an engineered wall of this size was ridiculous. Reuben stated that if the wall fails, it is Clermont's property and therefore his problem and not the Town's. Earl also stated that a Rip-Rap wall is not meant to be weight bearing and wants to have an engineer put it on a drawing. Mike Guay suggested allowing the wall to be built and move the MH parallel to the road and behind the original stone wall and hold a bond on it. The problem is that bonds are not indefinite and are only good until the project is completed. John questioned what would be the Town's liability if the wall failed. Robin felt that there would be some liability for the Town. Mike Waddell felt that the Town could not be held liable. The board suggested that Burke draw up a new plan with the following items listed on it:

- 1) Cross section of the wall
- 2) Specify the rock sizes to be used (minimum & maximum)
- 3) Show the cant of the wall from top to bottom
- 4) Drainage
- 5) Placement location of MH at the top of the wall
- 6) New driveway location
- 7) Fence at top of wall
- 8) Existing concrete wall underneath be identified
- 9) Letter from Dave Patry regarding water lines on Mill Street

Burke will try to get this done and to the Assessing office to be scheduled for the board's next meeting .

## **OLD BUSINESS:**

**Brouillette/Munce/Kelly Lot Line Adjustment revocation** – This item arose due to the fact that the plan approved by the board was recorded at the registry prior to all of the properties changing hands which was a condition of the approval. The board had requested that the Town’s Attorney tell the board how to proceed. The Town’s attorney informed the board that a Revocation needed to be done as the conditions of the plan were not met. At the board’s last meeting, the board voted to proceed with the revocation and certified letters were sent to all owners, applicants and abutters giving them 30 days to contact the Town. They also voted to send a letter to Burke York informing him that they were holding his firm financially responsible for fees related to this revocation because his office recorded the plat before the conditions were met. Burke explained that the transfer of land that was outlined on the plan did actually happen. The only thing that did not happen was the sale of the “Portland Glass” building to Dana Brouillette and Luc Dube. However, he is still hopeful that it may take place sometime in the future and if the plan is revoked, they would have to start all over again. Mike Guay’s understanding when the board approved the plan was that all conveyances had happened including the Portland Glass building. Mike Waddell felt that the plan took 3 lots and moved the lines between them to create 2 lots but reality is that there are still 3 lots and he felt the plan should be revoked. Burke explained that nothing happens until a deed is recorded conveying the property and that if those deeds are not recorded within 5 years, the plan becomes null and void. The same thing happens with a subdivision. The board also discussed recording deeds along with the plan. Burke explained that this rarely happens even though the Coos County Registry of Deeds informed the Assessing clerk that this is how it is done with most other towns. Burke explained that when a subdivision is approved by the Planning Board, deeds are done only as each lot sells. The same is true with a lot line adjustment. After a plan is approved by the Planning board, the plan gets recorded then the recording information is added to the deed then the deed gets recorded. Burke suggested that the plans be recorded at the registry then the assessing office holds the plan and does not make changes until the deeds are recorded. Robin Frost reminded the board that they asked for an attorney’s opinion, the attorney read the minutes of the meeting and recommended the plan be revoked. The board voted to revoke the plan at the last meeting and notices were sent to all the abutters, owners and applicants and no one came forward. She recommended the board follow through with what their attorney recommended and what they voted to do at their last meeting. Mike Waddell made a motion to take no action on the revocation of the approved plan. The motion received a second from Reuben Rajala and the board voted in favor of taking no action with Wayne Flynn opposed as he felt the board should take the attorneys advice and revoke the plan.

**Losier – Lots for sale in White Birch Acres** – At the March meeting, the board asked the Town’s Attorney to send a letter to Remax regarding lots they had listed for sale in White Birch Acres. The listing showed these lots as being buildable lots. The attorney sent the letter to Remax but asked them to remove the listing. The minutes of the meeting do not indicate that this is what the board asked for. Mike Guay is concerned this could cause some legal ramifications.

**North Country Council** – Mike Guay informed the board he had received information from Tara Bamford from NCC. She has asked the board to decide if they want a specific project done with a specified billable amount or if they were unsure what exactly they wanted her to handle then a billable hourly rate would

be the better route so she is asking for a contract and some direction. Mike Waddell asked if someone could find out what the billable hourly rate would be.

**Spring Planning Conference** – Wayne and Barney Valliere both attended the spring conference. The OEP has links on its website to the handouts presented at the conference that included some Supreme Court decisions. The board would like copies for its members at the next meeting.

**Code Enforcement update:** John Scarinza updated the board on the following items.

**Walmart:** Renovations are almost complete

**Top Notch Rental House Property:** John informed the board that the owners were making a “Green” parking area by removing approximately 2’ of topsoil, adding stone, then sand, then more stone and a special pavement that is porous to allow water to run through it instead of off onto the neighbors properties. This helps to keep the run off out of the storm drains. It will be interesting to see how this works.

**Berlin City signs:** Berlin City is now ready to move forward with their new sign package and will be going to the Zoning Board in the next couple of weeks.

**97 Lancaster Road:** Pat’s Auto has reopened on Lancaster Road. Pat Boisclair has moved into the house at 97 Lancaster Road and has moved some used trucks from Berlin City onto the parking lot at that location. John researched a Superior Court decision regarding the property which states that it can continue to be used for the same purpose. Therefore, he does not feel there is any issue with this property selling used cars.

**Hawkers/Peddlers:** There is a person selling seafood out of a truck in the Labonville’s parking lot. John researched this and there is no requirement for a state permit if the person is selling the “fruits of their own labor”. The person selling the seafood is also the captain of his own boat and therefore does not require a state permit. However, the Town does require a permit for any type of transient vendor. John will contact them and have them come in for a permit.

**Punchlist Items:**

**Kennels** - The current ordinance states that a kennel is an “establishment in which more than six dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained or sold. The issue is there are perpetual breeders in town who can at anytime have many more than 6 dogs who are under one year old.

**Additional Commercial Zone:** Paul Robitaille asked the board to consider discussion regarding creating another zone and naming it Commercial Zone C which would include the area of Park Street to Exchange Street and Railroad Street to Church Street and to allow this section to build up to the sidewalk and develop a “Village Commons”. Current zoning setbacks do not allow that. Mike Guay cautioned doing that where the DOT easement is involved. Wayne felt that it would relieve the ZBA process if those in that area did not require variances.

**Mobile Home Lots:** The current zoning ordinance states that no MH “with accessory buildings shall occupy in excess of twenty-five percent (25%) of a site”. The board felt that 25% is too small but that allowing

75% of the lot to be occupied would be too much. It was requested that the Town Warrant from 2 years ago be researched regarding this change.

**Gravel Pits:** The Town does not currently have any type of a permit that is required when someone wants to open a new gravel pit or expand an existing one. Though there are State Statutes that govern gravel pits, the town does not have an actual permit application. At one time there was a permit application and process but it is no longer accessible and the board felt that contacting Mary Pinkham-Langer from NH DRA and have her attend a board meeting to discuss and work with the board to create an application would be beneficial. Michelle will contact Mary to see when she can meet with the board.

**Next Meeting:** The next meeting is scheduled for June 19, 2014

**Agenda Items:**

**Fee Schedules:** TM Frost has received fee schedules from other towns for the board to review

**North Country Council Survey:** The board has received a survey to be completed. The board will review this at their next meeting.

**Drouin:** If Burke York can get the information to the Town Office in time for notices to go out, the board will hold a hearing on the amendments to the approved site plan.

**Adjournment:** A motion to adjourn was made by Wayne Flynn which received a second from Jeff Schall. All were in favor. Meeting adjourned @ 9:30 p.m.

Respectfully submitted,  
Michelle M. Lutz  
May 27, 2014