

**Town of Gorham
Planning Board Minutes
January 3, 2013**

Planning board meeting date 1/3/13

Members Present: Wayne Flynn, Chairman, Mike Guay, Reuben Rajala, Mike Waddell, Dan Buteau, Paul Robitaille, Barney Valliere, Earl McGillicuddy,

Absent: Bruno Janicki (Alt), John Losier

Others: Bill Jackson, Jay Holmes, Bob & Sue Demers, Tara Bamford, Gail Scott,

Meeting called to order: 7 pm by Chairman Wayne Flynn

Acceptance of Minutes: A motion was made by Mike Guay to accept the minutes of December 13, 2012 and 2nd by Mike Waddell.

Chairman Flynn set the agenda by beginning with the Public Hearing to review the draft amendments made to the Zoning Ordinance of the Town of Gorham. Copies of the Zoning Ordinance with draft amendments were passed out to all members of the Planning Board. It was agreed upon by Chairman Flynn and the board members that he would read each amendment and then open the floor for public questions.

AMENDMENT 1. Addresses several technical corrections and clarifications.

Part 1. Regarding Article III Section 3.23 – Remove as used in this Ordinance, the word street shall mean public highway. Agreed upon by all.

Part 2. Regarding Article III Section 3.39 Remote Camp - Addition of language after the word guests. Jay Holmes asked how the board would be permitting the 6 months? What would the paper trail be on this process? How would people be signing in and out to determine the permitting process, what will the guidelines be, how will this be tracked. Mike Waddell stated this decision would be made by the Code Enforcement Officer. Mike Waddell addressed Chairman Flynn and stated that if there were no problems there would be no reason to address the issue. Unless you had someone that moved into a camp and turned it into a year round home then they would be clearly in violation. No one will be monitoring each individual camp. Chairman Flynn reconfirmed that the monitoring will be done by the Code Enforcement Officer if he were to pick up on anything.

Part 3. Regarding Article III Section 3.47 Streets - Chairman Flynn read the language to be added and removed. Jay Holmes asked if this would pertain to an individual that wanted to build a condominium project and have a gated community. Would this article be put in place so that the said gaited community would be maintained by the association and not the town? Chairman Flynn answered yes this is what this change pertains to.

Part 4. Regarding Article III Section 3.48 Structure - Must follow the 6 foot structure rule for fencing. Chairman Flynn explained that as long as the panel itself was 6 feet there should be no problems.

Part 5. Regarding Section 4:04 D4. Commercial B District – Buffer Zone - Wording would have to be changed by removing the word “public” from streets.

Part 6. Section 4.05 D4. Industrial District. Remove the word public from streets.

Part 7. Section 5.01 Site plan review: Regarding multifamily or non-residential uses. Remove the word public from streets.

Part 8. Section 5.06. Replace “roads” with streets in paragraph J.

Part 9. Section 5.12. Amend driveway permits to reflect RSA 236:13 as approved by the Planning Board.

AMENDMENT 2: Wireless communication facilities.

Part 1. Add “Wireless Communication Facility” to 4.01 B. 4.02 B. Uses allowed by Special Exception in the Residential B District. 4.03 C uses allowed by Special Exception in the Commercial A District, and 4.06 B. Uses allowed by Special Exception in the Timber and Agricultural District. Section 4.05 Industrial District. Move “wireless” Communication Facility” from Section 4.05 A Permitted Uses to 4.05 B uses allowed by Special Exception. All Board members were in favor of this Amendment.

Part 2. Section 5.09 Wireless Communications Facilities. Purpose and Intent: Section 1. Remove “in the Timber and Agricultural District.” Wireless Facilities – Regulation and Performance Criteria. Strike Section A, 1, 2, and 3, and replace with new section A. Construction of wireless communications facilities shall be in accordance with all applicable provisions of this Ordinance. A whole new Table D would be placed in this section which lists performance criteria. Section G. Remove Subsection A.2 and shall be considered a permitted use in that zone and replace with new wording “Article IV Districts and District Regulations. Add wording to Section I #12 cost details including schedule of values and engineering design.

AMENDMENT 3: Keeping of chickens. Part 1 Section 4.01 B and Sections 4.03 C, and Section 4.04 C. Chairman Flynn stated for each of the three sections they would add the word the keeping of up to six chickens or other fowl on a single family lot for non commercial use. Suggestion was made by Jay Holmes to change the wording of enclosed area in #2 to read enclosed structure not fencing, it’s too vague the way written. Mr. Holmes also made note of the appropriate distance from the nearest resident footage for the keeping of the said chickens in Residential A District areas in town and in the Commercial A District and Commercial B District. The distance is not clear regarding the footage for the keeping of said chickens. He stated that the Board needs to clarify the appropriate distance and the wording needs to be better defined. Sue Demers stated she wanted to be clear on the appropriate distance also. Barney Valliere took the floor and spoke about setbacks and the right distance wording. It was agreed the Board needed to clarify discretion. Barney also stated he was opposed to this idea as he did not think that chickens belonged in Residential A and that this would be a problematic area. Dan Buteau said we need to use discretion. Mike Waddell stated we could state an appropriate distance, but had no specific instance regarding setbacks. Barney Valliere said it is depending where you are located; for instance, Residential A or Residential B. Discussion was had amongst the Planning Board members. A question was asked by Bob Demers who wanted to know if you already own more than six chickens at this time and/or a rooster, if you would be grandfathered? Also, if you currently own a rooster and the rooster dies, would you be able to replace it since you already had one prior to this proposed Amendment. Chairman Flynn stated in order for a rooster to be grandfathered the rooster would have to be awfully old because under the current ordinance roosters are not allowed. If a person was given a variance to allow a certain amount of chickens then that variance stays with the property. If this person were to get rid of all the chickens and decides to start back up again, then he would have to start over with the new ordinance in place.

AMENDMENT 4: Section 5.06 Manufactured Home park. Chairman Flynn read the changes and stated these changes are being put into place to clean up the existing ordinance and noted the discussions he previously had with various towns on their policies regarding the width of their driveways and the widths are set so that emergency personnel being able to get in and out of these said park. In reference to Section 5.06 C. Would remove the words “a public street.” Sue Demers asked if the new expansion that is being allowed on Route 2 does it meet this criteria. Chairman Flynn stated it does not, but it does meet the criteria for the existing section of the zoning ordinance. A lot of these changes came up because of discussions on this new project.

AMENDMENT 5: Section 3.48 Add the wording “structure” to the definition relative to fences and adds a new Section 5.11 Fences, walls, and hedges. Chairman Flynn stated a new table would be added regarding the height of fences and fences more than 6 feet high would require a permit but not a special exception. Mr. Bill Jackson asked what was the rationale point behind A2. Mr. Jackson wanted to know if this pertained to any other previous property problems. Tara Bamford took the floor and spoke on what the State law requires approval regarding any public right-of-way. Mr. Jackson stated he understands the state law but is wondering why we would be allowing fences in a public right-of-way at all? What’s the rationale behind this. Mike Waddell spoke up and said he couldn’t think of a good reason of why we would allow it. Bill Jackson stated he didn’t think Section 2 should be in there at all. Bill stated he was very weary of the Selectmen getting involved in any Planning Board matters. The suggestion was made to add a period after the word way was made so that A2 would read: Shall not be constructed or erected within any public right-of-way. Discussion was also had regarding the example of “Spring Road” and the reference of a “paper street” fence being a public way. Mike Waddell made examples of what could happen if two abutters went up against each other in this type of case like in the Tanguay right-of-way. Bill Jackson made reference to the “Pelerine Estates” and land in question. It was unanimously agreed upon that the ZBA or Planning Board makes the decisions, not the Selectmen. All agreed to make the changes. Barney Valliere asked if we needed a motion on this. Chairman Flynn stated he would go back section by section and make the appropriate changes if necessary. Jay Holmes asked the question by calling a fence a structure would this limit the amount of actual structures a person could build on his or her property. Mr. Holmes also stated the wording was too vague regarding definitions of walls and hedges, what would be considered a hedge? This needs to be better clarified. Mr. Holmes also raised the question of how many trees, bushes, etc., that a person could have. Said the definition of fences and walls was not clear. Jay Holmes wanted further discussion regarding the wording of structures and the limiting of taxable income to the town by calling things structures. Paul Robitaille took the floor and stated this clarification should be up to the Code Enforcement Officer. Mike Guay noted the States definition of what a structure is. Mike Waddell suggested inserting the correct language identifying what a structure is or is not and what would be counted as a structure. Tara Bamford stated there was already clear wording in the current zoning ordinance regarding fences & structures. Mr. Holmes said he wanted his question answered on what consideration was going to be given regarding structures, fences, and hedges, as this limits property owners. Chairman Flynn read the correct definition to Mr. Holmes regarding residential A regarding what is covered under this section at this time and stated fences would not be considered. Mr. Holmes stated he wanted to make sure the Board was going to be careful on how they worded this and enforced the property. Mr. Holmes also asked about fencing that was less than 6 feet and if they are still allowed on the property line. Chairman Flynn stated they would be allowed on the property line no proposed change was being made. Bob Demers wanted to know what the section is for the setbacks on a road way, street? Mike Waddell stated it depended on what zone you are in. Fences can be on your property line, there are no set-backs. They didn’t see a problem concerning mail boxes on property lines.

Work Session: Chairman Flynn asked if there were any further questions or comments for discussion that the Board would like to address . There were no further questions. A motion was made by Barney Valliere to change the wording

in Section 5-11 A.2 by adding a period after the word public-right-away. This motion was 2nd by Mike Guay. All Board members were in favor. The change will be made.

Mike Guay then made a motion to accept all the amendments being made to the Zoning Ordinance with said changes be placed on the Warrant. This motion was 2nd by Mike Waddell. All proposed changes will be placed on the Warrant. 6 were in favor, 1 was against. Chairman Flynn stated the motion carries.

Chairman Flynn questioned whether or not a 2nd public hearing needed to be scheduled since there was only a minor change. Bill Jackson said it was just a minor change in the way that it reads. Tara Bamford stated she thinks it will be fine and no other meeting would be necessary. Mike Waddell stated it will be put on the Warrant as amended. Tara Bamford wanted to know who she would be working with on the Warrant language. Suggestion was made for Tara and Town Manager Robin Frost to work together. Tara wanted to know about the subdivision section. Chairman Flynn asked if anyone had heard from John Scarinza regarding reviewing the road standards as Tara would like to move forward on the subdivision section. Tara would like to have until Feb. 21st to discuss the new additions/changes.

Chairman Flynn asked if anyone had heard any more information from John Lozier regarding his plot plan. Paul Robitaille wants to make sure that the Board members re-review the plot plans when they are submitted. Chairman Flynn discussed Joele Losier coming before the planning board last month with Mike Waddell. Mike Waddell was not agreeable with Wayne's information, he would like clarification of when this was first conditionally approved. He believed there was a motion in place to waive the fees of the new application. Barney Valliere asked if the board waived the fees. Discussion was had about the proposal and how they voted on Joele Losier's request. A long discussion was had about the property held by Joele & John Losier and waving property fees. They reviewed old minutes from Oct. 2011 regarding the 2 lots being sold and Joele Losier needing to meet the 6 conditions previously listed by the Planning Board in order to move forward. Paul Robitaille wanted to make sure that all the Board members present knew that she presented the same blue prints that she previously submitted the first time for review with no changes. It was duly noted by Chairman Flynn. Mike Waddell stated that this case has been going on for over a year and conditions have still not been placed on the plot as of this date.

NEW BUSINESS: Urban exemption regarding the Shoreline Protection Act. Mike Waddell spoke on this briefly. Spoke about Moose Brook & Moose River and abutting properties. This needs to be looked into. Mike Waddell will do the leg work to get this project going to identify the lots. Reuben would like to know what the benefits of the Shoreline Protection Act would be. Mr. Pizza was brought up as an example. Properties from the high school up to the trestle would be involved. The Planning Board will look into the Shoreline Protection Act.

OLD BUSINESS: Chairman Flynn asked if anyone had any further information on the old Munce's property. Paul Robitaille stated the Code Enforcement Officer has been working with them to be in compliance. Chairman Flynn heard there was an expansion project going on. No further discussion.

Next Meeting is scheduled for February 21, 2013.

Motion to adjourn was made by Mike Waddell and 2nd by Mike Guay. All were in favor. Adjourned at 8:00 pm