

**TOWN OF GORHAM
BOARD OF APPEALS
MEETING MINUTES
MAY 18, 2006**

The Gorham Board of appeals held its regular meeting on May 18, 2006 at the Gorham High School auditorium.

Present; Chairman Joe Gwozdz Board members; Melinda Shain, Alton Shurtleff, Dave McCullough, Cressey Mollison. Code Enforcement Officer, Clint Cushman, Deputy Town Clerk, Jennifer Elliott and Town Attorney, Natalie Burns.

Absent; Board members Lauren Carrier and Audrey Gerry.

Moved, Seconded and VOTED to approve the April 20, 2006 meeting minutes as printed and distributed. 3 yeas. (McCullough not present, Mollison not voting)

Appeal # 06-207. The appeal of Carl Phillips requesting expansion of a non conforming use, namely to construct a 40 foot by 60 foot building to accommodate the volume of large trucks that come in for repair at the automotive body shop that he operates at 133 Gray Road (map 46, lot 2) which is in the Suburban Residential District.

The Code Enforcement Officer stated that the body shop that is there has pre-dated the current Code.

Carl Phillips spoke on his own behalf and explained that he needs a 40x60 steel building to house large trucks and also to house a spray paint booth. He currently had a separate smaller building for the spray paint booth. OSHA has visited his business and decided that he has to make changes to comply with their Codes. He has until 2012 to make the changes. At this time he houses bigger trucks in a plastic hut. He will have the same kind of business and customers as he does now. There will be maybe one additional employee. The Code Enforcement Officer stated that there will be a need for a minor site plan review.

There were no Public comments and the hearing was closed.

Moved, Seconded, VOTED to grant the appeal. 4-1 (Gwozdz)

Moved, Seconded to reopen the appeal for matters of further discussion.

The Board discussed the criteria . They discussed expansion of use.

Moved, Seconded and VOTED to grant appeal contingent to minor site plan review. 5-0.

The findings of fact as read by the Code Enforcement Officer were Moved, Seconded and VOTED. 5-0.

Appeal # 06-208/. The administrative appeal of Albert Frick requesting the Board overturn the decision of the Code Enforcement Officer whereby he determined that a new office building, approximately 32 feet by 56 feet, is not a permitted use in the Rural Zone. The applicant operates a growing soil science and site evaluation business from his home and believes that the new building would be permitted under “agriculturally” related business use at property he owns 95 County Road (Map 4, Lot 9, 31) which is in the Rural District.

The Code Enforcement Officer stated that he considers this an office building and that is not allowed in this zone. There is an amendment in the Code which he believed was for entrepreneurial projects and would need 5 acres devoted to that project.

Albert Frick explained that he has run his business since 1985 and it is a growing business that does soil evaluations, site mapping, soil mapping and testing, erosion control and wetland mapping among other things. He has office staff, field inspectors and scientists employed there. He listed many of his customers state-wide. He read the definition of agriculture and agriculturally related. He noted that the Gorham Code does not clearly define these, and that it is too vague. He also believes that his business is truly related to agriculture. The percentage of what is brought back to be prepped and/or tested is about 30% of his total business.

In response to questions from the Board, he stated that they have patented a waste water filter and are working on another for remote islands. He stated that he got some of his definitions from Google on the internet. He has about 13 to 15 acres on his property but would not be able to devote 5 acres solely for this business. He has less than 50 % agricultural use.

Natalie Burns, Town Attorney, stated that someone can ask for an amendment to the ordinance to seek the change. They need to look at the primary function of the business, and this is not a related business to the Rural Zone.

The Board asked the Town Attorney about the percentages of use in one business and what would be needed; she stated that the Board will have to interpret that.

There were no comments from the public and the hearing was closed.

The board discussed the percentage of what he brings back to the office and if it is related to agricultural use, and if this is a permitted use in this Zone. They discussed being consistent with appeals. It would also need Planning Board approval.

Moved, Seconded and VOTED to overturn the decision of the Code Enforcement Officer and thereby grant the appeal. 3 Yeas, 2 Nays (Shain, Gwozdz)

The findings of facts as read aloud by Joe Gwozdz were Moved, Seconded and VOTED. 5 Yeas.

Moved, Seconded and VOTED to adjourn. 5 Yeas.

Time of adjournment 9:10 p.m.

A true record of meeting.

ATTEST: _____
Jennifer Elliott, Deputy Town Clerk