



TOWN OF GORHAM  
MEETING MINUTES  
BOARD OF APPEALS  
OCTOBER 17, 2013

The Gorham Zoning Board of Appeals held a regular meeting on October 17, 2013 in the Council Chambers at the Municipal center.

Present; Chairman Mark Curtis, Board members Jared Clark, Alton Shurtleff, Stephen Scontras and Joshua Kaufman. Code Enforcement Officer Freeman Abbott, Town attorney Natalie Burns, Acting Town Clerk Jennifer Elliott and Deputy Town Clerk, Laurie Nordfors.

Absent; Board member Charles Haws

Moved, Seconded and VOTED to approve the June 13, 2013 meeting minutes as printed and distributed.  
5 yeas

Appeal # 13-07. The administrative appeal of Travis Caruso, 53 Phinney Street (Map 43, Lot 1) requesting the Board overturn the decision of the Code Enforcement Officer. Brian Welling, Attorney for Travis Caruso and C&C Family spoke on behalf of the applicant and stated that they believe according to local Code and State Law, that a driveway permit should have been issued. He stated that any future plans to build houses are speculation. Attorney Burns spoke on behalf of the Code Enforcement Officer and explained that this is a right of way to another property, not a driveway, that it services a lot outside of the Fort Hill Estates subdivision, therefore, it must be shown on the subdivision plan, and it was not.

The Public Hearing was opened and several Attorneys representing families from Phinney Street spoke about current court cases involving the Smith family and the Town of Gorham regarding Phinney Street extension. They had concerns about decisions made prior to a court ruling. Three members of the public spoke in favor of the Code Enforcement Officer's decision. There were no further comments and the hearing was closed.

In response to questions from the Board, Attorney Robert Hart stated that Phinney Street extension was built by the Smiths as a private road to access their property. Attorney Burns stated she was not representing the Town in the pending court case. Attorney Welling stated that the travel way is not on the Caruso property.

Attorney Burns stated that nothing with this case is before the Planning Board and that this board cannot place conditions on this appeal because it is an Administrative appeal. Prior to that statement from Ms. Burns, there was a motion to table the appeal until it goes before the Planning Board.

Moved, Seconded and VOTED to uphold the Code Enforcement officer's decision. 5 yeas

At 8:15 pm the chairman called for a brief recess.

The meeting resumed at 8:22 pm

Appeal # 13-08. The appeal of TQ Holdings, LLC requesting enlargement of a non-conforming use/structure for Beal's Ice Cream at 579 Main street (Map 32, Lot 18) to relocate their freezer unit from behind their existing building to the west side of the building to support the closure of their western parking lot access in order to afford Martin's Point Health Care the opportunity to close the entry as requested by the Town of Gorham.

Owens McCullough, from Sebago Tech spoke on behalf of the applicant and pointed out on a map where the freezer is now and where it would be moved to. Beal's Ice cream is a grandfathered property. The Code Enforcement Officer stated that this went before the Board because it was a commercial property.

The Public Hearing was opened and Tom Ellsworth, President of the Gorham Economic Corporation spoke in favor of the appeal. There were no further comments from the public and the hearing was closed.

During Board discussion, they reviewed the 6 criteria;

1. The proposed use will not create or aggravate hazards to vehicular or pedestrian Traffic on the roads and sidewalks, both off-site and on-site, serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, and the visibility afforded to pedestrians and the operators of motor vehicles on such roads; 5 years

2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results; 5 years

3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants; 5 years

4. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties; 5 years

5. The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use; 5 years

6. The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shore land vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty. 5 years

Moved, Seconded and VOTED to approve the requested appeal to move the freezer/structure relocation to the west side of the existing structure as illustrated on the "proposed freezer relocation" plans dated 9/27/2013. 5 years

Moved, Seconded and VOTED to adjourn 5 years  
Time of adjournment 8:35 pm

A TRUE RECORD OF MEETING

-----  
Jennifer Elliott, Acting Town Clerk

