



**Town of Gorham
DECEMBER 5, 2005
PLANNING BOARD MINUTES**

LOCATION: Gorham High School Auditorium, 41 Morrill Avenue, Gorham, Maine

Members Present:

**HAROLD GRANT, Chairman
DOUGLAS BOYCE, Vice-Chair
THOMAS HUGHES
SUSAN ROBIE
MICHAEL PARKER
MARK STELMACK**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
AARON SHIELDS, Assistant Planner
BARBARA SKINNER, Clerk of the Board**

Members Absent:

Clark Neily

The Chairman opened the meeting at 7:00 p.m. and read the agenda. The Clerk called the role, noting that Clark Neily was absent.

1. APPROVAL OF MINUTES: NOVEMBER 21, 2005

Mark Stelmack MOVED and Susan Robie SECONDED a motion to approve the minutes of November 21, 2005, as written and distributed. Motion CARRIED, 3 ayes (Clark Neily absent; Douglas Boyce, Thomas Hughes and Michael Parker abstaining as not having been present at the November 21, 2005 meeting). [7:02 p.m.]

2. PRIVATE WAY PLAN – “HAVEN WOODS DRIVE” - off FLAGGY MEADOW ROAD - by STEVEN HOWARD

Request for plan approval of a proposed 350' private way to serve 1 lot off Webster Road, Buxton, off Flaggy Meadow Road. Zoned SR; M36/L3.

Kevin McKee, P.E., appeared on behalf of the applicant and explained that the proposed private way is to provide frontage for the 5 ± acres of the site that is in Gorham. It is anticipated that the private way will currently serve one lot and the road has been designed to the 2-6 lot private way standard. Mr. McKee indicated that there is about 350 feet of sight distance toward the southeast, and there is a rock outcropping which must be removed to improve the sight distance to the northwest. He said that a waiver of the 90 degree angle is being requested as the private way will intersect Webster Road at an angle of 68 degrees.

Mr. Shields presented the staff comments, quoting Condition of Approval #10 “That prior to the issuance of any building permits for any of the lots served by the private way, the Town’s Inspecting Engineer shall certify to the Code Enforcement Officer that the private way and all offsite improvements have been constructed in accordance with Chapter II, Section Vi, and the approved Private Way Plans.” Mr. Shields explained that the 90 degree waiver can be granted by the Board, and staff and the review engineer do not see any problem granting it. He said that there are some minor changes that need to be added to the plan before the Mylar is signed.

PUBLIC COMMENT PERIOD OPENED: None offered.
PUBLIC COMMENT PERIOD ENDED.

Mr. Stelmack asked how many private way intersections have had the 90 degree waiver granted. Mr. Shields replied that there have been 2 or 3 in the past few years, and that a lot has to do with the proposed traffic intensity. Mr. Hughes asked if the applicant is bound by Buxton standards, how does Gorham have the authority to grant the waiver. Mr. Shields replied that in order to obtain a building permit from the Town of Gorham, there must be approved frontage per Gorham’s ordinance, which is derived from the private road which must meet the Town’s standards. All that would be required by Buxton is a driveway permit.

Susan Robie MOVED and Thomas Hughes SECONDED a motion to grant Steven Howard's request for a waiver of the 90 degree minimum street intersection angle required by the Land Use and Development Code. Motion CARRIED, 6 ayes (Clark Neily absent). [7:15 p.m.]

Susan Robie MOVED and Michael Parker SECONDED a motion to grant Steven Howard's request for approval of Haven Woods Drive, a private way, located off Webster Road with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Clark Neily absent). [17:16 p.m.]

3. PRELIMINARY SUBDIVISION PLAN – “PYAEVNA MEADOWS” – off DINGLEY SPRING ROAD & FORT HILL ROAD – by BLACKWOOD ESTATES, LLC, ADAM MACK, MEMBER

Request for preliminary plan approval of a 29-lot subdivision with two roads on 90.63 acres [formerly proposed as “Blackwood Estates”]. Zoned Rural; M81/L27.001.

John Riordan, SGC Engineering, appeared on behalf of the applicant and discussed the plan. He explained that the lots have been adjusted and now consist of 29 lots, 26 single-family homes and 3 duplexes for a total of 32 units, and there is now no commercial use anticipated for any lot. It is a cluster subdivision, and the applicant now proposes to extend public water down Route 114 and Dingley Spring Road, approximately 3400 feet, to serve lots 1 through 26, with the larger lots of 27 through 29 fronting on Route 114 to be served by private wells. He noted that there is no density bonus in the rural zone for providing public water, all lots have been suitably tested to support on-site septic systems, and a MDEP Site Location Permit will be required.

Mr. Shields made the staff comments, giving a brief overview of the project and noting that the developer now proposes to extend public water to the site. He stated that the extension and utilization of public water within the development allow for the ability of the proposed narrower lots to be more easily developed with the onsite septic systems. Mr. Shields said that since public water is being proposed for the site, 100-foot frontage lots are more than adequate to allow decent sized houses and septic systems. Mr. Shields said that the overall lot sizes do not suggest clustering, as they range from 40,075 square feet up to 659,000 square feet and in the rural zone 40,000 square foot lots are a permitted size in a subdivision. Mr. Shields said that as part of the cluster proposal the development has been designed with 18-1/2 acres of perimeter open space which would be held by the association. Mr. Shields called the Board's attention to the cluster provisions, including a requirement for demonstration by the applicant that cluster is the best form of development for the site, that the cluster design is innovative and not simply being sought as a zoning reduction, and that the proposal meets the criteria in the ordinance such as building orientation, building envelopes, tree planting, landscaping and other amenities. Mr. Shields also noted that the proposal does not provide for future roadway extensions or connections to abutting land, and the Board will need to determine if this is appropriate for this development, particularly in light of the fact that there is another development proposed adjacent to this project. He said that the Board must address 1) whether the cluster plan is the better form of development; 2) whether the applicant has met the criteria necessary to develop a cluster subdivision; and 3) whether a roadway connection would be advisable.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Ms. Robie commended the applicant for proposing to bring in public water and said that she believes that the cluster plan is better than conventional, but indicated that lots 27 and 29 are much larger than those which normally appear in a cluster subdivision and the proposed open space is not as large as usual. She asked what might happen in the future with these very large lots, such as possible future subdivision. Mr. Shields replied that when the Board approves the subdivision for 29 lots and 32 units, it is that way forever

more unless the zoning in this area allows for a decrease in size and an application comes before the Board to amend the plan. Mr. Riordan commented that the plans are in compliance with the current zoning, and in addition to local controls, the MDEP Site Location and Development Permit would also have to be amended.

The Board then entered a lengthy discussion with Mr. Riordan and Adam Mack, the developer, about a future extension to abutting land, with various scenarios proposed. Ms. Robie, Mr. Parker, Mr. Hughes and Mr. Boyce all indicated that they believe there should be a connection to adjoining property. Mr. Grant noted that this represents the opinion of the majority of the Board and therefore it is required of the developer. Mr. Mack said he would be willing to give a 50' easement, working with staff as to its location, but he is not willing to build it, especially not through the wetlands or so as to disturb the proposed open space. Mr. Shields indicated that it would be a right of way which would be deeded to the Town when and if the roads in the development are accepted. Mr. Shields suggested inasmuch as this developer does not want to build the road, nor does the developer of the abutting proposed development want to build the road, it might make more sense to connect to another piece of land to create another neighborhood. Ms. Robie said she is in favor to making the best possible crossing to the Spiller land; Mr. Grant concurred, as did Mr. Parker and Mr. Boyce. Mr. Boyce suggested that there might be two right of way strips, one to the south and one to the west, with only one to be conveyed. Ultimately it was agreed that the applicant will work with staff to determine the location of future extension(s), appropriate to the plan, to abutting land. Ms. Fossum said that staff would look at the available wetlands mapping to clarify if a connection to the Sanborn property would be feasible.

The Board then discussed with the applicant and his engineer the question of extending public water into the right of way of Dingley Spring Road. Mr. Mack said that it is planned that the water will end at the middle of lot 21, and he proposes to approach Mr. Spiller to offer to extend the water line from the middle of lot 21 to where Mr. Mack's property ends on Dingley Spring Road if Mr. Spiller agrees to reimburse him for that last 100 feet or so when Mr. Spiller connects to it. Mr. Grant commented that it should be Mr. Mack's responsibility to bring the water main into the right of way of Dingley Spring Road, and the Planning Board has the right to require that that be done. Mr. Riordan commented that the Board would then be holding this applicant hostage for an extra 100 feet of water line; Mr. Grant replied that should the Town not accept the roads in this development, there would be no way for another developer to tie into the water main unless it were in the public right of way and that developer would be held hostage. Mr. Shields indicated that he was under the impression that the water was to come into the Dingley Spring right of way, and the point of the ordinance is to provide water for everyone. Ms. Fossum asked Mr. Mack for an estimate of what he would ask Mr. Spiller to contribute for the last 100 feet of water line to Dingley Spring Road; Mr. Mack replied that it would be about \$15,000. Mr. Stelmack commented he did not believe \$15,000 to be a significant amount in light of the total cost of the project. The Chairman polled the Board, and the Board concurred unanimously that the water is to be extended to the right of way on Dingley Spring Road by this developer.

Mr. Mack said that his company will be building the homes except possibly the larger lots on Route 114. Ms. Robie asked for grading plans for the lots having slopes of 20 to 33%. Mr. Grant asked if the building envelopes will be on the final plan, saying that long driveways may be an issue with the Fire Chief. Mr. Riordan said that DOT plans to shave down the hill on Fort Hill Road to improve sight distance.

Mr. Parker asked what the road standards are; Mr. Riordan replied that they will be 22 feet wide and paved curb to curb with an adjacent sidewalk for Tia Trail. Mr. Hughes suggested making the roads wider to better accommodate emergency vehicles passing parked cars, especially on the curved sections of the road. Mr. Mack said there will 75 foot driveway allowances to accommodate parking cars, but the 22 foot roadway could go wider if the sidewalk is dropped. Mr. Mack offered to make the road 24 feet wide where it is curbed and dropping the sidewalk in exchange for dropping the southern 50-foot right of way to abutting property. Mr. Grant asked for a show of hands agreeing with Mr. Mack's suggestion: Mr. Hughes, Mr. Grant, Ms. Robie and Mr. Stelmack agreed, constituting a majority.

Mr. Shields asked for the Board's conclusions on the three required findings: 1) whether the cluster plan is the better form of development; 2) whether the applicant has met the criteria necessary to develop a cluster subdivision; and 3) whether a roadway connection would be advisable. The Board concurred that issues #1 and #2 have been addressed, and the matter of the roadway connection has also been addressed.

Mr. Parker asked Mr. Mack if he could add some of the wetlands in the larger lots to the open space. Mr. Mack replied that he has buyers for those large lots as they are currently configured. Mr. Stelmack asked if 20% is a reasonable amount of open space. Mr. Shields replied that is dedicated open space, but if viewed in conjunction with non-buildable open space that will be owned privately, that number goes up to percentages in the high 30s. Mr. Boyce asked if there were any formal agreements regarding trail usage on the site, such as snowmobile trails. Mr. Mack replied there were none that he was aware of. Mr. Shields commented that there were some small segments out on Dingley Spring Road that cross over this land.

Mr. Grant summarized the Board's requirements as follows: 1) one future connection to abutting property to the west will be provided; 2) the water line will come out to the right of way on Dingley Spring Road; 3) the sidewalk will be dropped on the curbed sections of the road and the roadway will be 24 feet on the curbed road sections and 4) grading plans will be required for the lots with slopes of 20 to 33%.

Douglas Boyce MOVED and Thomas Hughes SECONDED a motion to grant Blackwood Estates, LLC's request for preliminary subdivision plan approval of the proposed "Blackwood Estates," a 29-lot residential subdivision on 90.63 acres off Dingley Springs Road, zoned rural, Map 81, Lot 27.001. Motion CARRIED, 6 ayes (Clark Neily absent). [9:00 p.m.]

Stretch Break to 9:10 p.m.

Douglas Boyce MOVED and Susan Robie SECONDED a motion to excuse the Chairman from participation in the discussion of Item 4. Motion CARRIED, 5 ayes (Clark Neily absent, Harold Grant excused). [9:10 p.m.]

Mr. Boyce assumed the chair.

4. PRIVATE WAY PLAN – "HANSEN WAY" - off 41 DINGLEY SPRING ROAD - by MARK E. & KARA L. HANSEN

Request for plan approval of a proposed 645' private way to serve 1 residential lot. Zoned SR; Map 81/26.002.

Laurie Humble, P.E., appeared on behalf of the applicants and explained that the road has been extended at the request of the DEP to locate the hammerhead in the upland area, out of the wetland. In addition, DEP has asked that the 3:1 side slopes be adjusted to 2:1 along the wetland fill area to reduce the wetland impacts associated with the roadway.

Mr. Shields gave the staff comments, noting that there is quite a bit of wetland fill to get to the one new lot in the upland in the back of the site and commented on the applicant's request for a waiver to reduce the side slopes from 3:1 to 2:1 in the wetland areas only.

PUBLIC COMMENT PERIOD OPENED: None offered.
PUBLIC COMMENT PERIOD ENDED.

Michael Parker MOVED and Susan Robie SECONDED a motion to grant Mark and Kara Hansen's request for a waiver of the 3:1 side slope required by the Land Use and Development

Code and to authorize a 2:1 side slope. Motion CARRIED, 5 ayes (Clark Neily absent, Harold Grant excused). [9:15 p.m.]

Susan Robie MOVED and Thomas Hughes SECONDED a motion to grant Mark and Kara Hansen's request for approval of Hansen Way, a private way to serve one lot, located off Dingley Spring Road with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 5 ayes (Clark Neily absent, Harold Grant excused). [9:16 p.m.]

Mr. Grant returned to the Chair.

5. PRELIMINARY SUBDIVISION PLAN – “COTTON FARM ESTATES” – off FARRINGTON ROAD - by VAN HERTEL, JR.

Request for preliminary plan approval of a 14-lot residential subdivision on 27.3 acres. Zoned R; M57/L10.

Bill Thompson, BH2M Engineers, appeared on behalf of the applicant and explained that an 11-acre parcel has been broken off an original 38 acre parcel and the project is now a 27 acre site with a 14 lot subdivision. He said that the lots will be provided with on-site septic systems, drilled wells, and the nitrate studies have been done. He said that Lots 1 and 2 will have a shared driveway off Farrington Road, Lot 3 and Lot 5 will have a driveway off Farrington Road, all other lots will be served by the new roadway. The new roadway is about 750 feet to the center of the cul-de-sac, will be built 20 feet wide with 4 foot gravel shoulders; stormwater will be handled through a series of ditches and easements into level spreaders; underground electric will come in to serve the lots off the new roadway; and it is being requested that the house lots along Farrington Road be permitted to connect to the existing pole line directly across the street from the lots. Mr. Thompson noted the three bulleted items for discussion this evening: 1) condition of Farrington Road and the memo from Tim Braun, Town Engineer, about renovations to the road; 2) nitrate analysis, just completed and to be submitted to staff on December 6, 2005, which shows there to be no issues; and 3) future right of way to abutting properties. Mr. Thompson commented that in order to connect to the abutting Irish Farms Subdivision, it would be necessary to go through wetland, there is no apparent benefit to provide for a continuation, and the applicant would prefer not to be required to do so.

Mr. Shields made the staff comments. He said that the nitrate analysis has been provided and indicated that staff is not concerned about the recommended changes to the plan.

Mr. Boyce quoted from the last paragraph of the Town Engineer's memo of November 29, 2005: "With these observations and considerations in mind I recommend that the existing surface pavement along the first 1500 ft. be milled and compacted into the existing gravel sub-base. The gravel base will be graded, compacted and paved with 4 inches of superpave asphalt. The 22 ft. roadway shall have a 2 ½ inch base course of 12.5 mm. superpave. The wearing course shall consist of a 1 ½ inch course of 9.5 mm. The wearing course shall consist of a 1 ½ inch course of 9.5 mm. The intersection should be re-graded, prior to paving, to allow for proper drainage." The Board concurred that the applicant will perform the work as outlined by the Engineer. Mr. Stelmack suggested that the last sentence of Mr. Braun's memo should read that "The intersection will be re-graded..." the Board concurred. Mr. Grant noted that a large tree partly obstructing the line of sight at the intersection of Farrington Road and Route 25 should be looked at. Mr. Thompson asked if the Board intended that the applicant is to be responsible for 100% of the costs of the Farrington Road improvements; Mr. Grant noted that there is no mention made of the Town sharing in those costs in Mr. Braun's memo. Mr. Boyce suggested that the Board be provided with cost estimates from the applicant and from the Town Engineer.

The Board discussed the issue of providing a future right of way to abutting property. Ms. Fossum said she would research the ownership of the Irish Farm easement. James Meacham, Irish Farm abutter, approached the podium and said the easement is part of their deed. Mr. Parker commented that if the road becomes a

Town road, it would make it an easier plow route to connect with Irish Farms, but it would not appear to be sufficiently valuable to the Town to build along those rights of way and there does not appear to be a need to extend it. Ms. Robie said the Ordinance requires a future right of way unless there is an impediment. Mr. Grant commented that common sense would also need to play a part in the decision, and that the Town of Gorham would probably never be interested in building the road and that it is the developers' responsibility to build it. Ms. Fossum said she was the planner when the Irish Farms Subdivision was approved and that the Code then also required right of way extensions to adjacent undeveloped land. Mr. Stelmack noted that the language in the Code provides that the Board may determine that the future roadway continuation is not in the public's best interest to require access to adjoining land, the topography is not suitable for access or the project is surrounded by wetlands. Heath Downey, 11 Alexander Drive, approached the podium and said there is a topography issue due to the amount of fill in the wetlands that would be required to build a road to connect the two projects. Mr. Hughes confirmed with Ms. Fossum that access in to Irish Farms is from Route 25. Mr. Thompson affirmed to Mr. Parker that there is a potential building lot loss if the right of way is provided and there is a significant grade change in the existing topography. Mr. Boyce concurred with Mr. Grant that if the developer is being asked for the right of way, then the developer has to be asked to build the road to Alexander Drive in Irish Farms. Mr. Boyce added that this would be a significant financial burden, especially in the light of the burden to improve Farrington Road which is being placed on the developer, and also noted that the point of connection to Alexander Drive is only about 300 feet in from Route 25. Mr. Parker commented that there is no undeveloped land to which a connection should be made. Ms. Fossum said that the purpose is connect subdivisions so that in the future there is a through route for buses and plows and traffic in general, and that creating an interconnecting roadway network is an overall benefit to the community.

Mr. Stelmack said he would not vote for the extension for the reasons that it is not in the public's best interest to require access to adjoining land, that the project is surrounded by wetlands and there is no suitable land available for a continuation. Mr. Hughes agreed, as did Mr. Parker and Mr. Boyce, constituting a majority.

Mr. Thompson, in response to a query from Mr. Grant, said they are advocating electric service for the 4 lots on Farrington Road coming in off the existing pole across the street, but the number of crossings has not yet been determined. No one on the Board objected to the request. Mr. Grant asked if there should be a plan note or condition of approval prohibiting any curb cuts off Route 25. Mr. Shields replied that the applicant has proposed a plan note to that effect. Ms. Robie asked what was planned for the 11-acre parcel next door; Mr. Thompson replied that there is one single house planned for that parcel.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant Van Hertel's request for preliminary subdivision plan approval of the proposed "Cotton Farm Estates," a 14-lot residential subdivision on 27.3 acres off Farrington Road, zoned Rural, Map 57, Lot 10. Motion CARRIED, 6 ayes (Clark Neily absent). [9:56 p.m.]

6. AJOURNMENT

Douglas Boyce MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Clark Neily absent). [9:57 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2005

2. PRIVATE WAY PLAN – “HAVEN WOODS DRIVE” - off FLAGGY MEADOW ROAD - by STEVEN HOWARD

Approved
Conditions of Approval:

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Director of Planning may approve;
2. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
3. That all construction and site alterations shall be done in accordance with the “Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices,” Cumberland County Soil and Water Conservation District, Department of Environmental Protection, dated 2003;
4. That 3 (three) complete sets of the final approved plan set will be delivered to (1) the Inspecting Engineer, (2) Public Works Director, and (3) Director of Planning one week prior to the pre-construction meeting;
5. That prior to the commencement of construction of the private way, the applicant will establish a performance guarantee with the Planning Department to cover the cost of constructing the paved apron;
6. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
7. That prior to the commencement of any site improvements and/or earth-moving activities, representatives of the applicant, general contractor, site contractor, and the site design engineer shall arrange for a pre-construction meeting with the Town Planner and other staff members to review the proposed commencement date of the project, the overall schedule of improvements, conditions of approval, and private way requirements;
8. That the applicant shall be responsible for the cost and installation of all required street signs to be placed in locations approved by the Fire Chief and Police Chief;
9. That the applicant’s engineer shall certify that the streets or ways have been constructed in accordance with the specifications of the Town of Gorham’s Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board. Furthermore the applicant’s engineer will be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
10. That prior to the issuance of any building permits for any of the lots served by the private way, the Town’s Inspecting Engineer shall certify to the Code Enforcement Officer that the private way and all offsite improvements have been constructed in accordance with Chapter II, Section V, and the approved Private Way Plans; and
11. That the Private Way Plan and Decision Document shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board; and that a receipt from the Cumberland County Registry of Deeds showing the date, and book and page number of the recorded plan and a copy of the recorded Decision Document shall be returned to the Town Planner.

4. PRIVATE WAY PLAN – “HANSEN WAY” - off 41 DINGLEY SPRING ROAD - by MARK E. & KARA L. HANSEN

Approved
Conditions of Approval:

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Director of Planning may approve;
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8. That the applicant shall be responsible for the cost and installation of all required street signs to be placed in locations approved by the Fire Chief and Police Chief;
9. That the applicant’s engineer shall certify that the streets or ways have been constructed in accordance with the specifications of the Town of Gorham’s Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board. Furthermore the applicant’s engineer will be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
10. That prior to the issuance of any occupancy permits for any of the lots served by the private way, the Town’s Inspecting Engineer shall certify to the Code Enforcement Officer that the private way has been constructed in accordance with Chapter II, Section V, and the approved Private Way Plans; and
11. That the Private Way Plan and Decision Document shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board; and that a receipt from the Cumberland County Registry of Deeds showing the date, and book and page number of the recorded plan and a copy of the recorded Decision Document shall be returned to the Town Planner.