



**Town of Gorham
JANUARY 30, 2006
PLANNING BOARD MINUTES**

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

Members Present:

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

Staff Present:

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

The Chairman opened the meeting at 7:00 p.m. and read the agenda. The Clerk called the roll, noting that all members were present.

1. APPROVAL OF MINUTES: JANUARY 9, 2006

Clark Neily MOVED and Thomas Hughes SECONDED a motion to approve the minutes of January 9, 2006, as written and distributed. Motion CARRIED, 7 ayes. [7:02 p.m.]

2. SUBDIVISION PLAN AMENDMENT – “SOUTHWOODS SUBDIVISION” - off 25 OAKWOOD DRIVE - by KEVIN A. & KATHLEEN D. JENKINS

Request for approval to create 1 additional lot on 1.67 acres. Zoned UR; M25/L1.015.

Mr. Shields noted that while the item was advertised as being for final approval, it should only have been scheduled for a pre-application meeting.

Andy Morrell, BH2M Engineers, appeared on behalf of the applicants, and explained that the proposed lot to be created from the applicants' 1.67 acre parcel will still be larger than surrounding lots as the minimum lot size is 20,000 square feet, the lot will be served by public water and sewer, underground utilities, and asked the Board to consider a waiver of the site walk.

Mr. Shields explained the applicants' lot, #15, as shown in the Southwoods Subdivision, was created with enough frontage based on the current zoning requirement of 80 feet to have two lots. He said that the original subdivision has been amended several times, and the amendments affecting this proposal include the transfer of a portion of the 25-foot greenbelt buffer having been deleted from the plan and the acreage given to abutters, including Lot 15, and an amendment to include multi-family dwellings on Lots 15 and 9. Mr. Shields said that it does appear that this lot was recognized for the possible use of a three-unit lot, based on the lot size and allowable gallons per day for the communal septic system that used to serve the development.

PUBLIC COMMENT PERIOD OPENED: Russell Gardner, abutter at 35 Village Woods Circle, said he has no opposition to the proposal, but expressed concern that if the existing tree cover is cut extensively, the remaining trees' root structure could be compromised, causing a safety issue during a strong wind. He asked that the Board reinstate a “green zone” of 25 or 30 feet, or require a “no cut zone” in the same distance to run parallel to abutting properties. Mr. Grant suggested that if a site walk is scheduled Mr. Gardner should be present.

PUBLIC COMMENT PERIOD CLOSED.

Mr. Grant directed that a site walk be scheduled in light of abutters' concerns.

3. PIT RECLAMATION / PRELIMINARY SUBDIVISION PLAN– “HAMLIN PIT” / “BROOKSIDE ESTATES” - off 100 PLUMMER ROAD – by LEAVITT EARTHWORKS CO., INC.

Request for preliminary plan approval of a 7-lot residential subdivision on 28.90 acres, and including discussion of a proposed pit reclamation plan. Zoned R; M86/L10, 10.001 & .002.

Charles Brown, Sebago Technics, explained that the plan is for 6 of the lot of the proposed subdivision on a new road to be known as “Winding Brook Drive,” with the 7th lot accessing off Plummer Road through the existing driveway. He said that since the site walk, the two hydrants on Plummer Road did not prove to be certifiable, so it is proposed that the residential units will be sprinkled. He said that a number of design issues have been addressed with staff and a third party engineer such as the stormwater design with a stormwater permit being filed with the DEP, a base elevation for the flood plain lines has been established, and the applicant has been working with the Public Works Director and the Town Engineer on off-site road and infrastructure improvements.

Mr. Shields gave the staff comments, noting that with the establishment of the flood plain elevation, a condition of approval will be required that all homes have the lowest floor one foot above that established elevation. He confirmed with Mr. Brown that the flood plain line may change somewhat before final approval. Mr. Shields said that staff would prefer to see the reclamation notes and plans compiled on one plan set, and asked for the Board’s input on this matter. He said the Net Residential Density maps both pre- and post-reclamation allow the property to be developed into the 7 lots proposed. Mr. Shields also mentioned that based on the stormwater management proposed after the site is developed, the water quality of the stormwater leaving the site will be the best possible, even though the developer was not required to do it.

Mr. Neily asked Mr. Shields if he is satisfied that his concerns have been addressed; Mr. Shields said he would like to see some of the reclamation plans combined to offer one thorough plan, but overall he is satisfied. Mr. Shields said that the review engineer, Steve Bushey, is also satisfied with the plans.

Ms. Robie said that a source of concern to her is the fact that if reclamation is not completed before the lots are sold, the Planning Board loses its ability to assure that the reclamation occurs. Mr. Brown said that there could be a condition of approval that prior to issuing a certificate of occupancy for the lot, the grading on that particular lot has to meet the reclamation plan requirements. Mr. Leavitt said that to start the road, all the cuts and fills for the entire site would be done at once while the road is being built, and said that any of the lots that are not sold during the early spring and summer will be loamed and seeded. Ms. Robie said that normally a gravel pit is reclaimed first and then a subdivision is made out of it, and that she likes Mr. Brown’s suggestion of a condition of approval. Mr. Grant concurred with Ms. Robie. Mr. Stelmack suggested that in order to insure that the grades are as shown on the final grading plan, the developer should be required to submit a survey of each individual lot after reclamation is completed prior to the issuance of certificates of occupancy. Mr. Leavitt indicated that that would be done. Mr. Grant asked if the developer would be allowed to sell unvegetated lots, which might remain undeveloped for lengthy period of times. Ms. Fossum suggested that if there is not a foundation in the ground by a date certain, then the site should be fully graded and revegetated. Mr. Shields concurred that some time in August, if a foundation is not in, the lots be reclaimed to the grade shown on the plan, loamed over and seeded, and if a buyer puts a foundation in two years later at least the lot is reclaimed. Mr. Leavitt asked for a deadline of August 15 to do the loaming and seeding on anything that is not done prior to that.

Mr. Boyce asked if Mr. Leavitt intended to grade the entire property, rough in the road, and grade the lots before any lots in the subdivision are sold. Mr. Leavitt concurred with Mr. Boyce’s scenario, saying that the buffer zones will be taken care of but if the lots are not sold, finish loaming and seeding will be done between August and the end of September. Mr. Shields said he believes it is the applicant’s intention to build the road and grade the lots before any of the lots are sold to anyone else, and then by August 15, if

there are no foundations on any of the lots, those lots will be loamed and seeded. Mr. Brown said the lots will have to be brought to reclamation grade in order to use material on site that is being excavated from certain areas.

Mr. Neily said he wants to make sure that the entire reclamation is done before a certificate of occupancy is done for the first house. Mr. Shields said that Mr. Neily's comment works with what Mr. Leavitt had already proposed: that the property will be graded before even selling a lot or getting a building permit. Mr. Boyce said that reclamation consists of two things: doing all the earthwork to get to finished grade, and the second step is to spread topsoil and establish vegetated cover, which is what the applicant wants to postpone. Ms. Fossum said that August 15 would be the date upon which he would loam and seed the entire site, with the exception of any area where there was a foundation in the ground.

Mr. Hughes asked if a certificate of occupancy could be obtained prior to everything being reclaimed. Mr. Leavitt said that after the road is constructed, as soon as planting season will allow, he will loam the entire site, and do all the buffer zones. Mr. Grant asked if Mr. Leavitt intends to sell a lot before the site is reclaimed, Mr. Leavitt said he would like to do so. Mr. Grant said that would be putting the burden of reclamation on someone over whom the Board would have no control; Ms. Robie said it would be all right as long as there is a condition of sale that the reclamation occurs by such and such a date. Mr. Grant said he did not believe a subdivision lot has ever been sold in a pit that has not been reclaimed. Mr. Stelmack asked at what point the Town would consider the reclamation to be complete. Mr. Grant said he did not believe a lot should be sold before reclamation is complete. Mr. Leavitt said he was not satisfied with that, that if in doing the road he could sell a lot, he could do the foundation work at the same time. Mr. Boyce asked if the Town would have a performance guarantee in place to assure completion of the reclamation activity. Ms. Fossum said the Town would need to have the full performance guarantee prior to the issuance of a building permit prior to the sale of a lot. She said that the bond can be posted before any construction is done on the site.

Mr. Grant said if Mr. Leavitt wants to sell a lot, he cannot do so until it has been inspected and has met the qualifications for being reclaimed. Mr. Stelmack said he agreed, and again suggested that a survey be conducted to confirm that an individual lot has been reclaimed per the plan, and he understood that Mr. Leavitt agreed to such a survey. Mr. Leavitt concurred that he does intend to have such a survey performed. Ms. Robie said she concurred with Mr. Stelmack, but there must be a date for the entire site to be reclaimed, irrespective of whether any lots have been sold.

Mr. Shields said that as a compromise, as there are several aspects of a lot that cannot be done until the foundation is in place, such as the driveway, the septic system, the well location, would for the Board to consider having the applicant show an envelope area where he would be permitted not to have to loam and seed, so that he would have the ability to reclaim the whole thing, loam as many areas as possible, but not have to loam and seed that envelope area where the septic system, house and driveway are going. Mr. Leavitt said he has agreed to loam and seed the entire site, but would like to be able to sell a lot.

Mr. Hughes said he agrees with Mr. Stelmack and Mr. Shields, that as a lot goes through the topo requirements it should be allowed to be sold, and that it is foolish to seed if it is going to be dug up for a driveway or a septic system. Mr. Hughes confirmed with Mr. Leavitt that the whole reclamation will be done by a certain date, a lot can only be sold when it meets the specifications of the topo survey suggested by Mr. Stelmack, and the vegetation of the lot will be done in accordance with Mr. Shields's compromise for the areas within a building envelope. Mr. Hughes confirmed with Mr. Leavitt that he will do total reclamation by August 15. Ms. Robie noted that this is for the interim period between June and July.

Mr. Parker explained to Mr. Leavitt why the Board is so concerned that reclamation of a pit is normally done before subdivision and this approach will require potentially considerable oversight in the Town's interests.

In response to a query from Mr. Hughes, Mr. Brown said that after review with staff, there is a significant cost to extend public water to the site. Mr. Shields said during the pre-application discussion, it was apparent that the numbers were not close.

Mr. Stelmack asked if the developer has agreed with the Town Engineer's comments on off-site improvements. Mr. Leavitt asked if a potential project across the street from this one could share in the off-site improvement costs. Mr. Grant commented that generally the first person to obtain final approval bears all the cost in these instances. Mr. Leavitt said he agrees with the safety issues, but would like to negotiate something about the paving aspects. He said, however, that he will do the improvements as suggested by the Town Engineer. Mr. Shields said that it is up to the Planning Board to decide if the Town Engineer's suggestions should be followed. Mr. Grant said it is up to the applicant to decide if he will do the work or give the Town the money to have it do the work if the Town wants to. Mr. Boyce asked about off-site costs experienced by other developers; Ms. Fossum noted that in the Sanborn Meadows development, a 14 lot project, the costs were \$60,000; Tall Pines, also 14 lots, the costs were \$24,643; and Barstow Highlands, a 40 unit project, the cost is \$80,000, and this one is \$12,000 for 7 lots. Mr. Stelmack confirmed that the off-site improvements are as stated by Town Engineer Timothy Braun in his December 13, 2005 memorandum.

Mr. Brown replied to a query from Mr. Boyce that FEMA has analyzed the North Branch, and a Letter of Map Amendment will probably be filed within the next two weeks. He said that once submitted, that will establish the floodplain elevation. Mr. Brown answered Mr. Parker that the proposed road will be built to Town requirements.

PUBLIC COMMENT PERIOD OPENED:

Mr. Grant referred to a January 25, 2006 letter received from Cynthia Smith at 84 Plummer Road. No other comments offered.

PUBLIC COMMENT PERIOD CLOSED.

Mark Stelmack MOVED and Douglas Boyce SECONDED a motion to grant Leavitt Earthwork's request for preliminary subdivision plan approval of the proposed "Brookside Estates," a 7-lot residential subdivision on 28.90 acres off Plummer Road, zoned Rural, Map 86, Lots 10.001 and 10.002. Motion CARRIED, 7 ayes. [8:10 p.m.]

Mr. Neily asked that he be recused from participation in the discussion on this item.

Douglas Boyce MOVED and Susan Robie SECONDED a motion to recuse Mr. Neily from participation in the discussion in Item #4. Motion CARRIED, 6 ayes (Clark Neily recused). [8:11 p.m.]

4. PRELIMINARY SUBDIVISION PLAN - "FAIRFIELD WOODS" – off 229 BUCK STREET – by BENJAMIN P. & SANDRA J. SMITH

Request for preliminary plan approval of a 4-lot residential subdivision on 72.57 acres. Zoned R/SR-SZ/RP; M79/L3 & M62/L21.

Tom Greer, Pinkham & Greer, appeared on behalf of the applicants and explained that the project had changed from the original 11 lots to the currently configured 4 lots, which include the applicants' existing home and an outsale of approximately 1.5 acres on Buck Street, and two additional lots, one in the Rural District of about 17 acres and another lot in the Residential District. Mr. Greer said that he believed that all issues have been addressed, and noted that the applicants are willing to sprinkle the two new homes as requested by the Fire Chief. He said that one of the driveways crosses a wetland, impacting

approximately 4400 square feet, they have obtained a DEP wetlands permit, and have verbal approval from the Army Corps of Engineers, which will be issuing a permit shortly.

Mr. Shields gave the staff comments, noting that a floodplain analysis of the site has been completed by the applicants' engineer and the 100-year floodplain elevation has been determined, so that all homes within the development must have their lowest floor one foot above that elevation. Mr. Shields said that in light of the possible contamination of the Branch Brook, the applicants' engineer had the proposed septic system locations analyzed with a summary of the impacts on the Brook. The summary indicated that the impact of the original 11 lots would have been well below the federal/State drinking water limits with no impact on the Brook; therefore, the impact of the currently proposed 3 new lots would be even less significant. Mr. Shields also noted that the soils review by the State Soils Scientist, David Rocque, that had been contemplated was deemed unnecessary due to the reduction in the intensity of the development.

Mr. Greer and Mr. Parker discussed the frontage for Lot 3. Mr. Greer confirmed to Mr. Grant that they have secured a permit from DEP for the driveway crossing over the wetland. Mr. Grant commended the applicants for the reduction in the size of the development.

PUBLIC COMMENT PERIOD OPENED: Jeffrey Christiansen, abutter at 236 Buck Street across the street from the development, expressed concern about the wetlands and the driveway placement. Mr. Grant assured him that the DEP would look at these areas. Mr. Christiansen also indicated a concern about sight distance on Buck Street and placement of the proposed new driveway.

PUBLIC COMMENT PERIOD CLOSED.

Douglas Boyce MOVED and Thomas Hughes SECONDED a motion to grant Ben and Sandy Smith's request for preliminary subdivision plan approval of the proposed "Fairfield Woods," a 3-lot residential subdivision on 72.57 acres off Buck Street, zoned Rural/Suburban Residential/Shoreland Zone.

DISCUSSION: Mr. Shields confirmed to Mr. Parker that the motion is correct in calling this a "3 lot" subdivision.

Motion CARRIED, 6 ayes (Clark Neily recused). [8:30 p.m.]

Stretch Break to 8:45 p.m.

Mr. Neily rejoined the Board.

Mr. Boyce advised that both the applicants and their engineer are former co-workers and friends but he believes that he can impartially review the application, and asked the Board to permit him to do so. No one on the Board objected to Mr. Boyce's participation.

5. PRE-APPLICATION CONFERENCE: SUBDIVISION / PRIVATE WAY PLAN – "WOODLANDS SUBDIVISION" – off 78 CRESSEY ROAD – by GEORGE B. & DORIS S. WOOD

Discussion of a proposed plan for a 6-lot subdivision and road on 8.18 acres. Zoned UR; M38/L26.

Jan Weigman, Sebago Technics, appeared on behalf of the applicants and described the proposed project. He explained that the applicants' residence is located at the rear of the property, and last year it was proposed that the site be developed with apartment units. Since then, it has been changed so that now it is proposed that there be a 6-lot subdivision ranging in size from .61 acres to 3.95 acres. Mr. Weigman said that the applicant has put in a water line from Flaggy Meadow to just north of his site on Cressey Road,

so these lots will be served by public water, private on-site septic, underground utilities and a private way. Mr. Weigman noted that the parcel is located within the area that has been identified in the proposed right of way for the Gorham by-pass, so the right of way location has been indicated on the map at the rear of the property in Lot 6, which will still contain a buildable area once the right of way has been acquired. Mr. Weigman said that the road will be about 500 feet long and will be built to private way standards.

Mr. Parker suggested that should the private way ever be contemplated as a public road, the hammerhead should be configured so that it turns right. Mr. Weigman said they will look at doing that.

Mr. Shields noted that the by-pass right of way now shows on the plans. He also said that due to the steep topography of the site, staff feels it important that there be complete grading plans for the lots that will show the on-site septic systems, the setbacks from the wetlands and/or stream setbacks, etc., to make sure that they are viable building lots that will not create issues for future home owners and abutting property owners.

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

Mr. Weigman said that nothing is being proposed in the by-pass right of way and that the proposed right of way is 200 feet wide. Mr. Neily commended the plan and the way the by-pass right of way is being treated, and noted that while the southerly by-pass will eliminate the large trucks going through the center of town, the real traffic congestion comes on Route 25, which will be relieved by the northern by-pass route. Mr. Boyce asked about extending public water along a private way; Mr. Grant commented that this is an issue that the applicant would need to discuss with the Portland Water District. It was agreed that Board members could visit the site independently and no site walk would need to be scheduled. [8:47 p.m.]

Mr. Boyce told the Board that this applicant is a neighbor, but believes that he can impartially review the application, and asked the Board to permit him to do so. No one on the Board objected to Mr. Boyce's participation.

6. PRE-APPLICATION CONFERENCE: PRIVATE WAY PLAN – off 38 PHINNEY STREET – by DARRYL G. & SARA HARVEY

Discussion of a proposed plan for a private way to serve 3 lots on land of Sawyer. Zoned R; Map 42/Lot 13.

Tom Greer, Pinkham & Greer, appeared on behalf of the applicants and described the project, a 650 foot private way built to a 2 to 6 lot standard to serve two new lots on land off Phinney Street. He said that the applicants live on a 10-acre lot that is accessed by a 50 foot strip of land which is proposed to be the location of the private way. Mr. Greer indicated that they are waiting for topographic and boundary data.

There were no staff comments.

Mr. Stelmack commended the juxtaposition of the aerial photo with the sketch map. Ms. Robie asked Mr. Greer about wetlands and possible topographic issues the Board should be aware of.

PUBLIC COMMENT PERIOD OPENED:

Ian Luce, 42 Phinney Street, expressed concerned about possible impact on his property and well. He asked how many lots could be created off the private way, to which Mr. Grant replied with a summary of the 3 different standards of private way permitted under the Code, and explained as well the issue of sight visibility based on speed limits.

PUBLIC COMMENT PERIOD CLOSED.

It was agreed that Planning Board members could view the site independently without scheduling a site walk, and that Mr. Greer would set up a site walk so that abutters could attend. [9:00 p.m.]

7. PRE-APPLICATION CONFERENCE: SUBDIVISION / SITE PLAN – “PRESUMPCOT COVE CONDOS” – 697 GRAY ROAD – by RAY PEPPERS REALTY, LLC [RAY PEPPERS, MEMBER]

Discussion of a proposed plan for a 14-unit condominium complex on 5.34 acres. Zoned UR; M110/L29.

Greg Boulette of Northeast Civil Solutions, Inc., appeared on behalf of the applicant and described the project as having 14 condominiums within 7 buildings to be served by a private way approximately 500 feet long, public sewer and water, and underground utilities.

Ms. Robie asked if the existence of the Oxford/Cumberland Canal and Towpath on the property required any special setbacks, buffers, preservation or other treatment. Mr. Boulette replied that he believed that the Canal is within the 100-foot flood map area.

There were no staff comments.

PUBLIC COMMENT PERIOD OPENED: Peter Fogg, son of Ken and Julia Fogg, abutters at 715 Gray Road, asked about the required distance that a road must be from an intersection. Mr. Grant replied that that will be checked.

PUBLIC COMMENT PERIOD CLOSED.

Mr. Parker asked what the road width would be; Mr. Boulette replied that it will be 22 feet, built to urban access standards, curbed on both sides, with a request for a waiver of the 8 foot esplanade requirement to 5 feet. Mr. Hughes commented that such a road will be too narrow and will pose problems with parked cars, emergency vehicles and snow plowing. Mr. Boulette said they will work with staff on this issue; Mr. Shields suggested that 24 feet curb to curb could be a solution. Mr. Shields, in response to a question from Mr. Boyce, said that staff will check that this section of Route 202 is within the Compact Zone. Mr. Neily commented about the Fire Chief’s concerns about maintenance of private ways.

Mr. Shields advised the Board that this proposed private way will be a private condominium roadway without a 50 right of way, a situation which the Board has discussed in past applications. Mr. Grant suggested that the issue be taken to the Ordinance Committee for resolution. Mr. Shields also advised Mr. Boulette that 80 feet of contiguous frontage is required, and the frontage cannot be broken up.

Mr. Grant directed that a sitewalk be scheduled. [9:15 p.m.]

8. ADJOURNMENT

Michael Parker MOVED and Susan Robie SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [9:16 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2006