



**Town of Gorham
NOVEMBER 6, 2006
PLANNING BOARD MINUTES**

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

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE, VICE CHAIR
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
NATALIE BURNS, Esq., Town Attorney**

The Chairwoman called the meeting to order at 7:05 and read the Agenda. The Planning Director, Deborah Fossom, called the roll with all members present.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to remove Item 5 (Site Plan, Subway Shop/Gorham) from the Agenda. Motion CARRIED, 7 ayes.

1. APPROVAL OF THE SEPTEMBER 11, 2006, and OCTOBER 2, 2006, MINUTES

Michael Parker MOVED and Thomas Hughes SECONDED a motion to approve the minutes of September 11, 2006, as written and distributed. Motion CARRIED, 6 ayes (Douglas Boyce abstaining as not having been present at the September 11, 2006 meeting)

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to postpone approval of the October 2, 2006 minutes. Motion CARRIED, 7 ayes.

2. COMMITTEE REPORTS

- A. Private Way Committee** Mr. Hughes announced there was no report for this Committee.
- B. Ordinance Committee:** Ms. Robie announced there was no report for this Committee.
- C. Sign Ordinance Committee:** Ms. Robie reported that final review comments have been submitted to the Mark Eyerman, the outside consultant, and the proposed Ordinance is to be ready by November 14, 2006 for circulation to the Town Council and its Ordinance Committee.

3. CONSENT AGENDA ITEMS

- A. STREET ACCEPTANCE REPORT – “MOUNTVIEW DRIVE” in NONESUCH FARMS SUBDIVISION – off BURNHAM ROAD - by RISBARA BROS. CONSTRUCTION CO., INC.**
Request for street acceptance by Risbara Bros. Zoned R; M1/L14.001-14.014.
- B. STREET ACCEPTANCE REPORT – “BROOKDALE DRIVE” in BROOKDALE SUBDIVISION – off COUNTY ROAD - by RONALD BERUBE BUILDERS**
Request for street acceptance by Ronald Berube Builders. Zoned R-SZ; M4/L6.401-6.4004.

C. STREET ACCEPTANCE REPORT - "JORDAN DRIVE" in JORDAN MEADOWS SUBDIVISION – off 59 WOOD ROAD - by RALPH VANCE LAND DEVELOPMENT

Request for street acceptance by Ralph Vance Land Development. Zoned R; M54/L16.301-16.312.

Ms. Robie said that all three items on the Consent Agenda are for street acceptance, and noted that staff recommends acceptance on the first two and suggests that the third item be postponed.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to remove Item C, "Jordan Drive," from the Consent Agenda. Motion CARRIED, 7 ayes.

Douglas Boyce MOVED and Michael Parker SECONDED a motion to forward a positive recommendation for street acceptance for Mountview Drive in the Nonesuch Subdivision and Brookdale Drive in the Brookdale Subdivision to the Town Council. Motion CARRIED, 7 ayes.

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to table Item C, Jordan Drive in Jordan Meadow Subdivision, to the next meeting of the Planning Board.

Discussion: Michael Parker asked for confirmation from the Planning Director that this item will be ready for the next meeting. Ms. Fossum confirmed that it should be.

Motion CARRIED, 7 ayes.

4. SITE PLAN – "BEVERAGE DISTRIBUTION FACILITY" - off 615 MAIN STREET by NAPPI DISTRIBUTORS PUBLIC HEARING - tabled from 09/11/06

Request for approval of a 155,000-sq. ft. warehouse and administration facility on 25+/- acres. Zoned I; M32/L13.

Edward Zelmanow MOVED and Mark Stelmack SECONDED a motion that Item 4, Beverage Distribution Facility, be taken from the table and brought before the Board for its immediate consideration. Motion CARRIED, 7 ayes.

Jan Wiegman, Sebago Technics, appeared on behalf of the applicants and introduced Frank Nappi, Jr., and Elmer Alcott. Mr. Wiegman explained that since last appearing before the Board on September 11, 2006, all the outstanding issues regarding the engineering review and site review have been resolved. As a result, there have been some relatively minor changes to the site plan with regard to the stormwater, drainage has been changed in the truck receiving area, some adjustments have been made to the truck parking area, and utility adjustments have been made based on discussions with the Portland Water District. A clear delineation of the habitat preservation area on the site has been established per the requirements of Inland Fisheries and Wildlife, and some minor adjustments have been made to the landscaping plan in light of Town comments.

Mr. Wiegman expressed concern with proposed Condition of Approval #7, "That no building permit shall be issued until the applicant has received final approval from MDOT through a developer/state agreement and the Town of Gorham Director of Public Works for the proposed improvements to Route 25..." saying that in order to complete a developer/state agreement, all of the offsite design drawings have to be approved by the State, which can be a 2 to 3 month process. He said they would like to see the Condition reworded so that the building can be started but the facility would not be able to open until those offsite improvements are done. Additionally, Mr. Wiegman said that in regard to the blast survey, while all of their DEP submission material indicated they would do a blast survey to 500 feet, the Town would like to take that out to 1000 feet, so they would like to suggest that they do notifications up to 1000 feet rather than the actual pre-blast surveys, with pre-blast surveys being done to any particularly sensitive facilities within that 1000 feet.

At Ms. Robie's request, Mr. Wiegman offered the following comments about Item 4 in the Planner's Agenda Memo dealing with off-site improvements and a potential Condition of Approval requiring continued monitoring of the accident rate. Mr. Wiegman said that in the course of putting their traffic study together, the Public Works Director's desire to get a right turn into the facility was very carefully considered, but it was determined that such a right turn is clearly not warranted. He said that if something changes twelve months after opening with traffic distribution which would potentially trigger a right turn lane warrant, such as a significantly greater number of trucks coming in from the west, they would have to put a turn lane in, but he feels that clearly it is not necessary at this time. Mr. Wiegman commented that the Town's Traffic Review Engineer, Paul Godfrey of HNTB Corp., concurred with their findings. Mr. Wiegman said that currently the improvements on Route 25 are in the process of being designed, with both the design and construction predicated on the proposed current solution, that it is not simply a matter of adding another right turn lane as rights-of-way would have to be acquired, and drainage is being designed which would have to be modified to accommodate another turn lane.

Mr. Stelmack noted that during the September 11 appearance of the applicant, it appeared that 3 major outstanding issues remained to be resolved, which were parking, sewer and sign size, and while parking and sign size appeared to be resolved, Mr. Stelmack asked for clarification of the sewer issue. Mr. Wiegman replied that the sanitary sewer issue relates to the fact the Portland Water District and the Towns of Gorham and Windham are preparing to bring a gravity line through the site to ultimately serve the Little Falls area, but given that the timing of that sewer line coming through the site is somewhat uncertain, the site has been designed with a pump station to pump into the force main currently crossing the site. He said if conditions change with the gravity line and the time frame is appropriate, the Nappis would not build the pump station but would tie into the gravity line. In response to a question from Mr. Stelmack, Mr. Wiegman discussed the proposed signage that was presented at the September 11 meeting, which is a 42-square foot two-sided monument style sign at the entrance.

Ms. Fossum made the staff comments, noting that the applicant is requesting a parking waiver for 25 spaces, having calculated their needs at 150 spaces and proposing to provide 160 spaces on the site. She said that the minimum required under the Ordinance is 185, which is 35 spaces more than the applicant calculates it will need and 25 more than will be provided. She said that the Planning Board can waive the requirement and approve a smaller number of spaces when an applicant has demonstrated it will be able to adequately meet the site's needs. She also noted that the sign approval being sought is for a 42-square foot monument sign, which is greater than the 36-square foot maximum allowed under the Ordinance without Planning Board approval, but which is within the 50% increase allowed under the Ordinance. Ms. Fossum said that the Public Works Director has requested that the pre-blast survey area be expanded to 1000 feet.

On the issue of the off-site improvements, Ms. Fossum noted that Paul Godfrey, the Town's Peer Review Traffic Engineer, evaluated the applicant's traffic report and proposed off-site improvements and concurred with the information provided, indicating that the proposed improvements presented by the applicant would satisfy the needs of the project. However, Ms. Fossum commented that the Public Works Director has expressed some concern about possible future accidents, which the applicant has answered with additional studies which Paul Godfrey has also reviewed. She said that although Mr. Godfrey expressed himself satisfied with the applicant's traffic proposals, he suggested a proposed Condition of Approval to resolve the concerns of the Public Works Director. Ms. Fossum commented, however, that she has found that such Conditions as the one proposed are hard to enforce and apply after the fact, and the project is not close to meeting the warrants for the right turn lane. She said that the improvements to Route 25 will be subject to review and approval by the MDOT as this section of Route 25 is outside the compact area. She said she had today received a copy of a draft permit from Randy Dutton, MDOT regional traffic engineer, with a notation that this is a draft which the Town will review and approve.

Ms. Fossum said that the applicant expects the MDEP permit to arrive at any time, and she has received confirmation from DEP that the permit review is complete and will be written in the near future.

Mr. Parker asked what the procedure would be should the applicant decide to tie into the gravity feed sewer system. Ms. Fossum replied that the change would be a field change and would not need to come back before the Board. Mr. Hughes asked why the Town Engineer asked that the pre-blasting survey area be doubled to 1000 feet. Ms. Robie replied that her understanding is that the Town Engineer said that within the 1000-foot radius, and perhaps beyond that, there were industrial businesses with sensitive computers which should at least be asked if they wanted to have pre-blast surveys. Mr. Wiegman said they did measure 1000 feet out, and that if some business has sensitive equipment, the pre-blast protocol may be handled differently by notification instead of video taping, which is the standard survey method.

Mr. Parker asked for information about the Public Works Director's concerns and desire for an extra lane, despite the traffic surveys and reviews that have been done that this is well below an area that would require an extra lane. Ms. Fossum explained that Mr. Burns is concerned that after the facility goes into operation, it may become a high accident location. Mr. Parker said he would defer to the traffic experts and would not want to impose this burden unnecessarily on the developer. Mr. Hughes quoted from Mr. Godfrey's correspondence about a solution to mitigate the potential problem should the Board wish to address it. Ms. Robie commented that there is no justification based on the current status for imposing the suggested mitigation; Mr. Hughes agreed, as did Mr. Parker. Mr. Wiegman said that their designs are based on what DOT has agreed they should be and are predicated on the current geometry of the road, and they do not believe a radically different design is warranted.

Ms. Fossum replied to a query from Mr. Fickett that the bond on this project will most likely be placed with the State, because the off-site improvements will be subject to DOT oversight and a state/developer agreement and would probably stay in effect until the improvements are made. She said that if the building is ready for occupancy and some site improvements have not been completed, those remaining improvements get bonded with the Town, but the Town would not take a bond on a roadway project that the DOT will take a bond on. Ms. Fossum said that she did not believe DOT would maintain a bond with respect to concern about traffic accidents that might occur after the facility is open, and that DOT will oversee construction of what is approved in the DOT permit. She said that when that is completed and a final inspection has been made and it is safe to open those lanes, DOT will release their bond, and then it will be a year or longer before there is any experience about accidents.

Mr. Hughes suggested that Condition of Approval #7 be amended to read that "... no *certificate of occupancy* shall be issued..." instead of building permit. Ms. Fossum said that the occupancy permit should not be written until the improvements are made, and this Condition covers approval of the proposed design before commencement of construction of the roadway work. Mr. Hughes confirmed with Mr. Wiegman that that would delay construction activities of the buildings; Mr. Wiegman said they cannot submit their plans to review by DOT until the draft permit has been finalized, and then it will take DOT 3 months or so to review the plans, which will occur over the course of the winter time, so next spring they will be ready to start construction. He said that completion of the developer/state agreement will happen once the plans are reviewed, the bonds will be placed, and they will be ready to go in April or May on the roadway improvements; however, with the building, they would like to get started before then because of the timing required to get it ready to open a year from now. Ms. Fossum said that site preparation can be permitted, but Mr. Wiegman said he was referring to building construction, which they hope can start as soon as possible. Mr. Boyce said he had no problem tying completion of the roadway improvements to a certificate of occupancy for the building, unrelated to whatever time it might take to get the roadway design plans approved, that there was no need to hold up construction of the building that will take a long time to build when the roadway improvements will be done in a much shorter period of time during the "construction season" for the roadway, which is next year. The rest of the Board concurred with Mr. Boyce, and it was agreed that a new Condition of Approval be written to allow Nappi to build the building prior to having stamped plans from MDOT for the offsite improvements to the road, but they cannot occupy the building until those roadway improvements are completed.

Mr. Zelmanow stated that he was not comfortable with the crash monitoring language as it is written now, as it raises many issues about causation and who makes the determination whether or not Nappi vehicles cause the accidents. Ms. Robie polled the Board to determine how many members are in favor of imposing a condition like this: the Board opposed imposition of the condition.

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

Ms. Robie asked the Board to comment on the increased pre-blast survey area as recommended by the Town Engineer. Mr. Stelmack asked if the applicant feels this requirement is reasonable. Mr. Wiegman replied they are comfortable with the 500 feet requirement, and would like to change the language so that the 1000 feet can be a notification of blasting so if they do have sensitive equipment, people within the 1000-foot area can be prepared. Mr. Boyce noted that pre-blast surveying involves video taping of all the structures within the 500 feet, and asked what type of notification is given and how often it is given. Mr. Wiegman said they could do a weekly blasting schedule notification or daily notification if necessary via e-mail, for example. Mr. Boyce said if the applicant is offering to make notification, he would find it acceptable if the applicant made an initial notification to people within the 1000 feet and let those people within 1000 respond should have they concerns and would want additional notice on an ongoing basis. Mr. Stelmack concurred with the approach suggested by Mr. Boyce, and said there is no reason to believe a pre-blast survey is needed between 500 and 1000 feet at this point. Mr. Zelmanow asked what protection is afforded to those people between 500 and 1000 who suffer some sort of damage. Mr. Boyce said he feels that the blasters should be advised if anyone feels they need some sort of protection, and anyone with a claim would file against the blasters or the contractor. The Board concurred with Mr. Boyce's suggestion, and Ms. Robie noted the need for a condition of approval on this issue.

Ms. Robie noted that the Planning Board rules, as the Board members have agreed to implement them, require that the MDEP Site Location Permit and the MDOT traffic movement permit have to be in hand prior to the Board's approval, as the commentary, especially that of DEP, often requires changes to plans. She said if the Board conditions approval, it often does not see those changes or the revisions, so it is difficult for the Board to approve a plan without the DEP permit in hand and has not been reviewed. She said that because the substantive issues have been discussed, the Board can agree to put this item on a Consent Agenda, which means that once those permits are in hand and there are no changes, the item can be voted on without any further discussion. Ms. Robie said she is uncomfortable granting approval without those permits in hand. Ms. Fossum confirmed that it is the MDEP Site Location Permit which has not yet been written but she has received confirmation that all of the DEP staffers who provide input into a permit have signed off and are satisfied with the plans, and that there is a draft DOT traffic movement permit. Mr. Wiegman confirmed that he had received assurances that the DEP permit will be forthcoming in the near future. Mr. Boyce said that in light of DEP's apparent readiness to issue a permit, he suggested that the Board vote on approval of the project but withhold signing the Mylar until the DEP permit is brought to staff. Ms. Fossum said that a condition of approval should be written to that effect. Mr. Parker said that presumes there will be no change resulting from the DEP permit and no discussion. Ms. Burns said if there were changes that impact any of the conditions shown on the approved site plan, it would have to come back to the Board for amendment. Ms. Fossum said she believes the question of stormwater on this project's site plan has been addressed it is very unlikely that there would be any changes which would impact the Town or place any responsibilities on the Town or would change anything being reviewed this evening. She said it is a site plan that has been looked at by the DEP, it is not a subdivision with homeowners' association documents or a complicated permit with many conditions of approval. Mr. Hughes concurred with Mr. Boyce's suggestion and crafting a condition of approval that the Mylars will not be signed until those permits are in hand. Mr. Parker said he did not believe putting an item on a consent agenda does not expedite the process for the applicant by deferring final approval, he would like to see this expedited, and the suggested condition of not signing the Mylar is the way to do it and therefore concurs with Mr. Boyce and Mr. Hughes. Ms. Robie noted that, as Ms. Fossum has said, this involves no real liability for the Town because the stormwater is all on site and therefore is somewhat unique. Mr.

Fickett concurred, as did Mr. Zelmanow, except for not using the consent agenda process as the Board has discussed. Mr. Stelmack also concurred.

Mr. Zelmanow asked how the proposed sign will be lit; Mr. Wiegman replied that it will be internally illuminated and will be located in the center island dividing incoming and outgoing traffic. Ms. Robie said that the Board prefers external lighting. Mr. Wiegman said they will look into that.

Thomas Hughes MOVED and Douglas Boyce SECONDED the applicant's request for a reduction in the required number of parking spaces from 185 to 160 spaces based on its demonstration that the parking demand will be lower than that established by the ordinance and reduction will not detract from neighborhood values, inconvenience the public, or increase congestion on adjacent streets. Motion CARRIED, 7 ayes.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant the applicant's request for an increase in the maximum size of its proposed sign to allow for a 42-square foot monument sign. Motion CARRIED, 7 ayes.

Ms. Fossum read a new Condition of Approval #7 as follows: "That no certificate of occupancy shall be issued prior to the completion of all required roadway improvements." Mr. Boyce suggested the addition of the words as set forth in the MDOT Traffic Movement Permit and detailed in the MDOT construction plans.

The Town Attorney read a proposed new Condition of Approval #8, as follows: "That the applicant shall perform a pre-blast survey within a 500 foot radius of the project. The applicant shall provide to property owners within a 1000-foot radius of the project notification that blasting will occur on the site. If requested by property owners within the 1000 foot radius of the project, the applicant shall provide notice prior to individual blasting events." Ms. Burns recommended that there be no specific timing established in the Condition in order to allow the blasting company to work with individual property owners to provide the kind of notice that they want. Mr. Stelmack confirmed that property owners within the 500-foot radius as well as those within the 1000-foot radius will be notified. Ms. Burns said that those properties within the 500 foot radius are those that are generally are considered to be at greater risk for potential insurance claims so notice occurs within that area anyway whether the Board requires it or not. Mr. Parker asked if notification should not be given 500 feet or 1000 feet of the blasting site. Ms. Burns agreed that should be added.

Ms. Fossum read a third condition of approval #11, "That the Planning Board shall not sign a Mylar for the project until the applicant submits copies of the final signed permits from MDOT and MDEP. In the event that either permit requires changes to the approved site plan, the applicant will return to the Planning Board for an amended approval." Mr. Parker asked if the adjective substantive changes can be added. No one objected to the addition of the adjective, which was done.

Mr. Wiegman said he is comfortable with the three conditions of approval.

Mark Stelmack MOVED and Michael Parker SECONDED a motion to grant approval of Nappi Distributor's request for of a warehouse/distribution facility at 615 Main Street with conditions of approval as posted prior to the meeting and discussed this evening with the applicant. Motion CARRIED, 7 ayes.

Stretch Break from 8:12 p.m. to 8:22 p.m.

5. SITE PLAN – “SUBWAY SHOP/GORHAM” – off 109 MAIN STREET – by SUB BUILDERS, INC.

PUBLIC HEARING – *tabled from 09/11/06*

Request for plan approval of a 1,653-sq. ft. restaurant with 12 parking spaces on .24 acres. Zoned UC; M102/L153

POSTPONED AT APPLICANT’S REQUEST

6. FINAL SUBDIVISION PLAN & SITE PLAN & SITE PLAN AMENDMENT – off 74 COUNTY ROAD – by HANS C. HANSEN, INC.

3 PUBLIC HEARINGS – *tabled from 09/11/06* Zoned R/SR; M3/L22:

A. “STARGAZER” SUBDIVISION / “BLUE LEDGE ROAD” -

Request for final plan approval of a 7-lot condominium subdivision encompassing 6 residential lots and 4 commercial units with an existing agricultural business, a proposed daycare facility and 2 areas reserved for future development on 23.8 acres on the site of the existing Hansen’s Farm Market.

B. “GROWING YEARS DAYCARE” SITE PLAN –

Request for final site plan approval of a proposed daycare facility.

C. “HANSEN’S FARM MARKET” SITE PLAN AMENDMENT - Request for approval of a site plan amendment for Hansen’s Farm Market.

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to take this item from the table and brought before the Board for immediate consideration. Motion CARRIED, 7 ayes.

Thomas Greer, Pinkham & Greer, representing the applicants, introduced Hans and Elizabeth Hansen, Sandra Miner, who will operate the day care, and Chris Vaniotis, Esquire, Mr. and Mrs. Hansen’s legal counsel. Mr. Greer presented a brief update on events that have occurred since they were last before the Board on September 11, noting that additional landscaping around the day care has been provided, and spoke about an e-mail from a neighbor indicating her satisfaction if certain trees were added off the end of the building. Mr. Greer said more detailed plans have been provided to staff for the improvements along Route 22 showing intersection changes, which plans are now almost ready to go to the state for the developer/state agreement once the project has been approved by the Board. Mr. Greer said he believed that those plans have been forwarded to the Town’s Traffic Review Engineer, Paul Godfrey of HNTB, for review. Mr. Greer said that the geometry of the intersection layout has been reviewed by MDOT in their Scarborough office and has been approved; and construction details have been added as they go through the developer agreement with the state. Mr. Greer said there have been no engineering changes to the plans since preliminary approval, certain plan notes have been changed and staff has been provided with two copies of the plans showing those revised notes.

Mr. Greer said items for discussion include the financial capability of the applicant and timing on when the offsite improvements will be made. He said they believe that the letter provided from the applicant’s accountant shows the Board sufficient evidence that the applicant has the equity necessary to complete this project, and prior to construction they will be filing performance bonds on the offsite work through the developer/state agreement, which will have performance guarantees and insurance requirements for the contractor doing the work that will protect the Town once those improvements are started that they will be completed. Mr. Greer said that Mr. Hansen would like to do the onsite construction of the subdivision road himself as part of that agreement without filing a bond on it, and they have agreed not to sell any of the lots

that would be impacted until all of the improvements are made or until a bond has been provided equal to the remaining portion.

Ms. Fossum made the staff comments, noting that the applicant has asked to be on tonight's agenda. She said the applicant has worked hard to respond to comments from staff and to complete all of the required submissions that staff has requested, with some of the plans coming in as late as Friday November 3. She said while 2 sets of plans were received, 3 sets at a minimum are required for staff review. She said she has forwarded a set to the Town Engineer but as yet has not received his comments, and a set must be forwarded to the stormwater reviewer as the plan has a number of easements shown on the plan relating to stormwater management. She said the Town does not want to take responsibility for some of the newer stormwater facilities that are being constructed, so the DEP conditions, homeowners' association documents, and the easements to be drafted need to be reviewed, which has not yet happened. The applicant has been asked to provide a list of the easements describing their purposes, to whom they are to be granted, what rights are being granted, and when the easement is to be offered. Ms. Fossum said that the Town Attorney has noted a number of deficiencies in the proposed legal documents, and a fully coordinated review is needed by the stormwater reviewer, the Town Engineer, the Town Attorney and Town Planner of the DEP Order, MDEP stormwater management program, and proposed legal documents and homeowners' association documents. She noted that there are some DEP conditions of approval in the Site Location Permit which should be identified on the plan for prospective purchasers.

Ms. Fossum said that while the applicant did provide a letter from his tax accountant, this is not the usual form of financial capacity generally provided. She noted that at the September 11, 2006 meeting Mr. Hansen asked the Board to accept the DEP finding on financial capacity, but the estimated cost for the project provided to DEP does not appear to include the offsite traffic improvements at the intersection. She said that there is no clear indication how the offsite improvements will be funded, except to note that the applicant is intending to discuss with the Town Council the possibility of a traffic impact fee arrangement or a tax increment financing district, either one of which could typically take 3 to 6 months to develop.

Ms. Fossum also spoke of the applicant's request for approval of a conditional agreement for the subdivision improvements to exclude the agricultural building, Lot 1, Unit 2, to allow him to sell that property before any of the subdivision improvements or offsite improvements are completed, asserting that the agricultural building, an existing building, does not rely on any of the infrastructure improvements. However, Ms. Fossum noted that the Ordinance does not permit that, as the Ordinance says that no lots shall be conveyed until the improvements are made.

Ms. Fossum pointed out various required submissions which have not been received for review, i.e., the draft offer of cession letter or a draft of a proposed deed for Blue Ledge Road, which could be conditions of approval, but the issue of a list of proposed easements is more serious.

Ms. Fossum said that additional plan notes need to be added to the subdivision plan as well as the appropriate site plans, such as the DEP permit number and the DOT traffic movement permit.

Ms. Fossum noted that with respect to the DOT approvals and the offsite improvements for this project, this project is partially in the Compact area and partially outside the Compact, and discussions with DOT locally indicate while there will be a developer/state agreement, it appears that the Town will be totally responsible for construction oversight, as was done with the VIP project.

Ms. Robie asked Ms. Fossum to comment on whether or not the traffic lights are actually on the plan. Ms. Fossum said she has a set of drawings from Diane Morabito, with Maine Traffic Resources, that detail the traffic signal; however, in the latest packet there are preliminary DOT plans and the lights do not appear on the plan. Mr. Greer said that the lights and how they operate are part of the Casey & Godfrey [sic] plans as part of the new submission, which show more of the roadway plans, such as the widening, the striping, that type of changes, and the light is intended to have a fourth face to it.

Ms. Robie said that the Board's understanding from the Planner's comments is that there still a lot to be done, there are many issues that are not completely resolved, including those which require more time, such as stormwater details, legal documents, easements, and sorting out the performance guarantee. Ms. Robie said she does not believe it is appropriate for the Planning Board to do all of this twice, to have these discussions now, and then to have to come back and discuss this again. She said that while it is recognized that Mr. Hansen wants to get on with his project and the Board would like to help him do that, it is difficult to approve this project at this point in time.

Chris Vaniotis, legal counsel for Mr. and Mrs. Hansen, approached the podium and addressed the Board about the performance guarantee and why they believe that what they have asked for complies with the requirements of the ordinance, as well as discussing the additional documentation which has to be provided. He said that his experience serving as legal counsel to the Town of Scarborough indicates that planning board members do not read the homeowners' association documents and all the easements, that they rely on staff to do that and to ensure that those documents are in place and proper. Therefore he does not believe that there is any substantive issue about the stormwater on this site on how it is going to work, it is a matter of making sure that the homeowners' association documents and the deeds correctly document the responsibilities for maintaining it. He said that in many towns the planning board would give an approval conditioned upon staff having a final review of those documents, that the attorney who prepared Mr. Hansen's legal documents can discuss them with the Town's attorney, and suggested to the Board members that they have looked at what they need to look at and what's left are essentially documentation items that can be handled by staff. Regarding the performance guarantee, Mr. Vaniotis explained that Mr. Hansen has asked that the existing farm stand building not be subject to the conditional agreement because it is already there and has a driveway and has everything necessary to serve it even if the subdivision never happens. Therefore if the opportunity arose for Mr. Hansen to sell it, that would in no way impair the rest of the subdivision, but Mr. Hansen would still be responsible for doing all the improvements in the subdivision and would have to make sure if he sold the farm stand building, he reserved all the rights he would need to make the changes that would be part of the subdivision. Mr. Vaniotis referred the Board to the letter the Board has received from Mr. Hansen's accountant, which says that one of the corporation's assets is a parcel of land that can be subdivided, and based on an appraisal, the corporation has equity capable to cover the costs of subdivision. He said that this is a little bit different from what the Board would typically see because typically developers have not yet bought the land when they appear before the Board, which is why commonly a bank letter is presented which indicates that money will be loaned to an applicant to do a project. Mr. Vaniotis said that Mr. Hansen already owns the land, that he may be a little land rich but cash poor at the moment, but he has the equity in the land to be able to do everything he needs to do, and with subdivision approval, that equity can be turned into the cash necessary to post the performance guarantee to make sure all the improvements are done. He said they are proposing a so-called conditional agreement as described in the ordinance as an interim measure, and under that conditional agreement the Town would be fully protected, no lots could be sold with the exception of the farm stand lot if the Board will permit that, and no building permits could be issued, until either the road is fully built and the infrastructure improvements are done or Mr. Hansen has substituted a performance guarantee. Mr. Vaniotis said he has provided the Planner with suggested language for a conditional approval which would cover the off-site improvements as well, that until those improvements were done lots could not be sold unless a performance guarantee is substituted. He said that Mr. Hansen does contemplate building the internal road on his own, but if a performance guarantee is needed at some point he will provide it in the form of a bond or a letter or even a cash escrow.

Ms. Robie said that to her knowledge, the Board has never approved a project without the stormwater review being completed. Mr. Vaniotis replied that all the technical aspects of the review are complete, what is yet to be reviewed are the details in the homeowners' association documents and in the easement deeds, so the legal details are clear as to how that responsibility is handled, that the Town is not responsible and there is a mechanism in place which describes those responsibilities are. Ms. Robie referred to the Planner's statement that the stormwater review has not been completed, that the last plans were submitted

November 3, 2006. Mr. Greer said he believed that the Town's reviewer wants to make sure that the easements and the maintenance agreement match up and coordinate with the homeowners' documents and DEP agreement. Mr. Vaniotis repeated that these details can be reviewed by staff. Mr. Greer also said that a separate easement plan was submitted last week, something that has never been done before, and it is frustrating for the applicant to have to go to that level of detail, but the plan has not changed in terms of basic layout for six months, that is just minor nitpicking details with one more round remaining, which could be a condition of approval.

Hans Hansen approached the podium and commented about the length of time the project has been under consideration and the many reviews it has undergone. He said he realized that his Pinkham & Greer and its employees may have made minor mistakes but the plans now are clean. He said his is a small company and should not be subjected to reviews of minor details that can be done by staff, and he wants to get started.

Mr. Hughes said he has only been on the Board for five years, but as he reviewed this project for tonight's meeting, he commented that he has never seen a single project with as many loose strings as this one, and does not know why the Board is even considering it tonight. He said that while Scarborough might do it differently, the Planning Board in Gorham tries to help staff by making sure that the ordinances are followed with resulting clean projects. Mr. Hughes said there is no vindictiveness involved at all, but it bothers him that plans are being dropped off on a Friday which have not been reviewed but which the Board is asked to approve on the following Monday night. He said that the Board overall has been expeditious in helping businesses come to Gorham, but it is not acceptable to say that staff can resolve all of these issues and it is not a procedure he wants to be a part of. He said that he does not believe some of these issues are minor, and his position now is that he could not possibly vote for it tonight in any way, shape or form.

Mr. Parker agreed that the staff work remaining to be completed by the Town Attorney and the Planner is not something with which the Board deals; however, the Board does the final review process and signs the Mylars to get a project going, and he does not want to turn loose an approval until proper reviews have been made and he is convinced that the package is complete. He said this does not appear to him to be a complete package and while he supports the concept of this development, the Board should not be expected to give final approval on a project when information is still coming in that cannot possibly have been reviewed by staff and brought to the Board as a finished product. Mr. Fickett concurred.

Mr. Greer suggested that this application be tabled and the applicant will return next month. Ms. Robie said she has been advised that the Board should postpone, rather than table, the item. Mr. Greer concurred.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to postpone. Motion CARRIED, 7 ayes.

**7. FINAL SUBDIVISION PLAN - "PYAEVNA MEADOWS" / "SHANA LANE" & "TIA TRAIL"
- off DINGLEY SPRING ROAD / FORT HILL ROAD -by BLACKWOOD ESTATES, LLC**

[Adam Mack, member]

Request for a final approval of a 31-lot subdivision with two roads on 90+/- acres. Zoned R;
M81/L27.001.

Michael Roy, SGC Engineering, introduced the applicant, Adam Mack, and John Riordan of SGC. Mr. Roy gave a brief overview of the minor revisions to the subdivision, saying that they have received their Site Location Development Permit and have worked with the Portland Water District and secured its approval on the design for the water main. He said some of the changes in the plan include a right-of-way extension to the adjoining property to the west at the end of the proposed Tia Trail, the sidewalk on Tia Trail has been eliminated and the road has been expanded from 22 feet to 24 feet, the water main in Shana

Lane has been extended to Dingley Spring Road, and the issue of the location of the boundary of the school lot has been resolved with the Town with formal agreement on the property line expected to occur at the Town Council meeting of November 14. Mr. Roy said that construction of the project will be divided into 4 distinct phases, the first phase being the construction of the 4 lots on Route 114; the next phase will involve the water main extension from the end of the line at Standish, coming down 114; and the loop road, Shana Lane, will be constructed next, followed by Tia Trail.

Ms. Fossum made the staff comments, noting that the plans, like other subdivisions on the Agenda, contain a number of referenced easements, having to do with the new DEP stormwater regulations and the stormwater maintenance programs. As with other plans, she said that staff would like to see a numbered list describing each easement, who the proposed grantee is for each easement, and the purpose of each easement, what rights are being granted and when the easement will be offered to the proposed grantee. She said that the Town is only willing to accept rights but not the obligation to maintain drainage and stormwater facilities located outside the proposed public right of way. She said that the applicant has not yet provided a draft letter of cession, a draft of proposed road deeds, and drafts of any proposed easements deeds that would be offered to the Town at the time of street acceptance.

Ms. Fossum also noted that while the Town Attorney has reviewed the legal documents, her comments and concerns have not yet been transmitted to the developer in writing, so there will be another round of documents submitted.

Ms. Fossum said that the applicant has provided a satisfactory letter of technical capacity and the MDEP Site Location Permit is in hand. She noted that the applicant has agreed to extend public water from its current terminus on Route 114 to the development lots located off Dingley Spring Road and the Town Engineer has stipulated that the developer will be required to post a bond of \$25,000 against potential damage to Dingley Spring Road, which has just recently been repaved. The Town Engineer also notes that Dingley Spring Road is posted in the spring, which must be factored into the construction program, for which a condition of approval has been created. Additionally, the Town Engineer has requested additional information on the water flow out of the fire pond and leaving the site. Ms. Fossum also noted that the Board must make a finding on the cluster subdivision proposal before it can grant final approval.

PUBLIC COMMENT PERIOD OPENED: Norman Wedge, Director of Dingley Spring, commented about a dynamite blasting survey for this project. He said that as of today, Dingley Springs Water Company is under citation from the state for bacteria, and ultimately these developments will impact their water supply even more adversely. Mr. Wedge commented about the blasting done by Risbara Brothers for their development, which may have caused the present problem and which was never cited under the 2500-foot rule. He asked the engineer to point out the 300-foot mark on the plans and the 2500-foot mark. He said that every time a building permit is issued within the 2500-foot mark, Dingley Spring is to be notified, and there have been two recent excavations where the local Code Officer has not followed the directions of the statute. He said that the Board needs to persuade the Code Officer to pay attention to what is going on and notify the Dingley Spring residents when excavation occurs. He asked if Dingley Spring Road will be blasted for this project. Mr. Wedge said that the Town will be liable if their water supply fails. In response to a query from Mr. Stelmack, Mr. Wedge said they been in contact with the Code Officer and the Town Manager. Mr. Wedge said it should be up to the Board to require notification of the Dingley Spring residents if there is going to be any blasting within a 1000-foot radius. Ms. Fossum said she would speak to the Town's GIS person to see if the 2500-foot mark is on the Town's tax maps. Ms. Robie commented that public water is getting closer, that this developer is required to bring water all the way to the second entrance; Mr. Wedge said it will be very expensive for the Dingley Spring residents to connect to that water.

PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow asked if there was going to be any blasting. Mr. Roy replied that the only location where blasting might be possible is in the location of the detention basin and all water flow is away from the

Dingley Spring **aquifer**. Mr. Parker asked if the loose ends on this project are amenable to the consent agenda process; Ms. Fossum agreed that they would be. Mr. Parker explained the consent agenda process to the applicant. Mr. Stelmack asked Ms. Fossum about the stormwater reviewer's suggestions for conditions of approval for this project concerning the school house lot and a time frame for the Portland Water District schedule.

Adam Mack, developer, approached the podium and explained that phase 1 would be the large lots on Route 114 that do not require water, phase 2 would be the extension of public water some 5000 feet closer to Dingley Spring sometime in the spring and would include starting work on the internal roadway. Mr. Mack noted that he cannot get any building permits to build any houses so long as the water is not in place.

Mr. Hughes said he believes that this application is a perfect candidate for the consent agenda process, and explained the process to the applicant and his engineer. The applicant and his engineer agreed to the process. The Board concurred that a finding on the cluster subdivision proposal has already been made.

Mr. Boyce asked the applicant for confirmation of the planned public water extension, which the applicant has looped and extended to Dingley Spring Road. Mr. Boyce asked about a fire pond, which the engineer has indicated will not be constructed. The applicant indicated that this project was approved under the old DEP stormwater regulations, and the main easements for this project deal with for drainage courses, and for a grading and drainage easement along the loop road, Shana Lane.

Michael Parker MOVED and Edward Zelmanow SECONDED a motion to place this item on the consent agenda for final review of the revised plan. Motion CARRIED, 7 ayes. [9:25 p.m.]

Mark Stelmack MOVED and Douglas Boyce SECONDED a motion to waive the 10:00 o'clock in order to entertain the rest of the items on the agenda. Motion CARRIED, 7 ayes.

8. FINAL SUBDIVISION PLAN – “DOUGLAS KNOLL” / “MARYANN DRIVE” – off WATERHOUSE ROAD & SOUTH STREET – by DESIGN DWELLINGS, INC. - Request for final approval of an 18-lot subdivision with one 1,050' road on 29.9 acres on land of Douglas. Zoned R; M22/L4.

Shawn Frank, Sebago Technics, introduced the applicant, Susan Duchaine of Design Dwellings, Inc. Mr. Frank told the Board that in response to the its request during the July meeting about the applicant's request for approval of a cluster design, additional information has been submitted on proposed house designs, landscaping, elevations, a lot layout plan, and screening from both South Street and the by-pass and possible “build to” lines on the lots east and south of the subdivision road. Mr. Frank said a buffer is proposed to keep the development away from the by-pass, and the setback from South Street has been increased to 100 feet, with 12 additional trees to be planted along South Street.

Mr. Frank pointed out a strip of land which has been retained by the seller, Mrs. Douglas, where the by-pass is proposed. Mr. Frank said a note has been put on the plan indicating that this strip is not a buildable lot. Mr. Frank said that 14 lots are being proposed with individual drilled wells and subsurface sewage disposal systems for each of the lots. A fire pond is proposed for the intersection of Waterhouse Road and Maryann Drive; this pond meets the requirements of the Fire Chief. Mr. Frank discussed the new DEP stormwater rules requiring treatment of 95% of the roadway and 85% of the development, including lawn areas, driveways, etc. He described the proposed stormwater management for the site through the use of two dry ponds and an underdrain system for the uphill lots, and swales with underdrain systems for the downhill lots. He said there will be two easements associated with the large ponds, which will be

maintained by the homeowners' association, as well as smaller easements along some of the property lines to collect runoff from individual lots. He said that they do have their DEP permit.

Mr. Frank added that Lot 14 is a "tight" lot and said he will be happy to provide a grading plan in association with that lot's development.

Mr. Frank said that the developer met with the Town Engineer to discuss offsite improvements to Waterhouse Road, and has agreed to improve the ditch along Waterhouse but the culvert does not need to be replaced. He said that a video will be made of the existing condition of Waterhouse prior to construction, they will utilize the existing driveway off South Street as the main construction entrance, a bond will be posted in the event Waterhouse does have to be repaved. They will review the video of Waterhouse with the Town Engineer, both before and after, and come to an agreement on any improvements that may have to be done.

Mr. Frank said that a trail is being proposed along the common line between Lots 6 and 7 for access to open space.

Mr. Stelmack asked Mr. Frank about comments from a neighbor about water quality. Ms. Susan Duchaine, the applicant, approached the podium and told the Board that there is an old foundation on the site that had some debris such as old tires and tanks, which have been removed from the site. She said that test pitting has been done on the site and there are no negatives. She said that there is nothing in a well that cannot be filtered, and these are to be bedrock wells and there is no reason to believe that groundwater will ultimately interfere with them. She said that with their drilled wells, they guarantee drinking water that is satisfactory or satisfactory with notation. If a water test comes back unsatisfactory, the well is filtered; if the water is found to be satisfactory with notation such as an odor, then the homeowner is responsible for filtering. Ms. Duchaine told Mr. Stelmack she has no knowledge about the neighbor's well. Mr. Frank said that no contamination has been found on the site.

Mr. Stelmack asked Mr. Frank about the 1500 foot area in their proposed blasting survey, noting that another application discussed a survey within 500 feet with the Town Engineer asking that it be doubled to 1000 feet. Mr. Frank said he thought that was a Town requirement after speaking with the Town Engineer. Ms. Duchaine said that a blasting company will go to anyone within 500 feet and video tape their basements, and their insurance company will cover any damages. Ms. Fossum said she did not believe the distance was covered in an ordinance, and asked if the applicant would be willing to do a survey within the 500 feet and a notification within an additional 1000 feet. Ms. Duchaine said she has no problem notifying everyone within the 1000 feet at the start of the project and then perhaps individual ones within the 500 feet.

Mr. Hughes asked about the Fire Chief's statement that he will accept the fire pond so long as it works and no building permits will be issued until the fire works satisfactorily, and if it does not, the applicant will sprinkle the homes. Ms. Duchaine said she has seen the Fire Chief's letter and supports fire ponds and is confident that this one will work.

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

Ms. Fossum confirmed that the Board has not formally acted on the applicant's request for a cluster subdivision. Ms. Robie read the Clustered Residential Development Standards from the Land Use and Development Code as follows:

- "a) Orientation: buildings and other improvements shall respect scenic vistas and natural features.
- b) Streets: access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow

clearance, street maintenance, delivery and collection services. Street shall be laid out and constructed consistent with local requirements.

- c) Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements to the site shall be prevented by landscaping or other means.
- d) Sewage Disposal: adequate provision shall be made for sewage disposal, and shall take into consideration soil conditions and potential pollution of surface or ground waters.
- e) Water Supply: adequate provision shall be made for both ordinary use as well as special fire needs.
- f) Utilities: all utilities shall be installed underground wherever possible. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.
- g) Recreation: facilities shall be provided consistent with the development proposal.
- h) Buffering: planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.
- i) Disposition of Buildings: shall recognize the need for natural light and ventilation.”

Ms. Robie noted that it is also required that residual open space shall be usable for recreation or other outdoor living purposes and for preserving large trees, tree groves, etc. In addition, each building shall be an element of the overall plan, which to some degree must also be innovative.

Ms. Duchaine said that there will be a number of different building types that could be expanded upon, and that in order to be more affordable, the houses will be offered with unfinished second floors and with and without garages.

Ms. Robie said that in her view, a clustered subdivision is the best use for this property as it minimizes the infrastructure required, it provides for open space, and she is particularly please with the buffer to be provided along South Street.

Douglas Boyce MOVED and Thomas Hughes SECONDED a motion that this development be accepted as a clustered development as meeting the intent of the cluster provisions of the ordinance. Motion CARRIED, 7 ayes.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to grant final subdivision approval of Design Dwellings, Inc.’s request for the Douglas Knoll Subdivision, a proposed 14 lot clustered residential subdivision on 29.9 +/- acres off Waterhouse Road, zoned Rural, Map 22, Lot 4, with conditions of approval as posted prior to the meeting and discussed with the applicant.

Discussion: The Board reviewed the proposed conditions of approval, including one requiring a grading plan for Lot 14.

Motion CARRIED, 7 ayes.

9. PRIVATE WAY PLAN – “ASLANS WAY” – off 464 LIBBY AVENUE – by JOEL P. LLOYD & CASSANDRA L. IRISH LLOYD

Request for approval of a proposed 330’ private way to serve 3 lots in a family division on land of Irish. Zoned SR-SZ; Tax Map 50/Lot 11.

Douglas Johnson, Brian Smith Surveying, appeared on behalf of the applicants and gave a brief overview of the proposal to create a private way to serve 3 lots in a family subdivision.

Ms. Fossum gave the staff comments, saying that the private way will be 335 feet in length, ending in a hammerhead turnaround constructed to the Town standards for a private way to serve 2-6 lots. She said that the Town Engineer has reviewed the plans and they are now in order.

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

Mr. Fickett asked if the 5 by 5 inch granite monumentation specified on condition of approval #5 is appropriate. Ms. Robie said that this is what the Code requires. Mr. Johnson said that size does not matter if they are placed flush in the ground.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to grant approval of Joel P. Lloyd and Cassandra L. Irish Lloyd's request for approval of a private way off Libby Avenue to serve three lots, with conditions of approval as posted prior to the meeting and discussed with the applicant this evening. Motion CARRIED, 7 ayes.

10. PRIVATE WAY PLAN – “SKYLINE DRIVE” – off 29 HARDING ROAD – by DURWARD B. WORSTER

Request for approval of a proposed 500' private way to serve 1 lot on land of Cousins. Zoned SR: M35/L12.002.

Jon Whitten, Terradyn Consultants, appeared on behalf of Mr. Worster and Christy Cousins, current owner of the land. He explained the proposal as a 448 foot private way to access one lot at the rear of Mrs. Cousins' property. He said that the plans have been revised as requested by the Town Engineer, and the applicants are aware of the Fire Chief's comments on private ways.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to grant approval of the applicant's request for approval of a one lot private way off Harding Road with conditions of approval as posted prior to the meeting and discussed with the applicant this evening. Motion CARRIED, 7 ayes.

11. SCHEDULE OPTIONAL MEETING

As there are no carryover items, the Board concurred that there is no need for another meeting in November, and that the next meeting of the Planning Board will be on Monday, December 11, 2006.

12. ADJOURNMENT

Thomas Fickett MOVED and Michael Parker SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [10:15 p.m.]

Respectfully submitted,

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

4. SITE PLAN – “BEVERAGE DISTRIBUTION FACILITY” - off 615 MAIN STREET by NAPPI DISTRIBUTORS

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 applicant and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for de minimis changes which the Director of Planning may approve;
2. That the applicant is responsible for obtaining all local, state and federal permits required for the development of this project prior to the start of construction;
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, latest edition;
4. That 3 (three) sets of the final approved plan set will be delivered to the Compliance Manager one week prior to the pre-construction meeting, for distribution to the Inspecting Engineer, the Town Engineer and the Planning Director;
5. That prior to the commencement of any site improvements and/or earth-moving activities associated with the approved site plan, the applicant shall arrange through the Town’s Compliance Manager for a pre-construction meeting with the selected Review Engineer, Portland Water District, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director, to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
6. That the site improvements shall be completed as shown on the approved plans prior to request for either temporary or final occupancy permits for the building; or a performance guarantee, covering the remaining site improvements shall be established through the Planning Department;
7. That no certificate of occupancy shall be issued prior to the completion of all required roadway improvements as set forth in the MDOT Traffic Movement Permit and detailed in the MDOT construction drawings;
8. That the applicant shall perform a pre-blast survey within a 500-foot radius of the blasting site. The applicant shall provide to property owners within a 1000-foot radius of the blasting site notification that blasting will occur on the site. If requested by property owners within the 1000-foot radius of the project, the applicant shall provide notice prior to individual blasting events.
8. That the applicant shall satisfy all of the Fire Chief’s requirements as outlined in his memo to the Town Planner, dated August 25, 2006.
9. That the applicant shall provide property line information and site information, including each sheet of the final approved set of plans for the project, in auto-cad format (version 2000) to the Planning Office prior to the scheduled pre-construction meeting and upon completion of the project shall also provide the final record drawings in auto-cad format to the Public Works Department; and
10. That the Planning Board shall not sign a Mylar for the project until the applicant submits copies of the final signed permits from MDOT and MDEP. In the event that either permit requires substantive changes to the approved site plan, the applicant will return to the Planning Board for an amended approval;
11. That the conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated

copy of the recorded Decision Document shall be returned to the Town Planner prior to the issuance of any building permits or commencement of any improvements on the site.

8. FINAL SUBDIVISION PLAN – “DOUGLAS KNOLL” / “MARYANN DRIVE” – off WATERHOUSE ROAD & SOUTH STREET – by DESIGN DWELLINGS, INC. –

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 applicant and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for de minimis changes which the Director of Planning may approve;
2. That the applicant is responsible for obtaining all local, state and federal permits required for the development of this project;
3. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange for a pre-construction meeting with the Planning Staff, Public Works Director, Fire Chief, Code Enforcement Officer, Town’s Inspecting Engineer, Site Contractor, Design Engineer and himself to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
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 the applicant shall provide property line information and site information in auto-cad format to the Town of Gorham Tax Assessor prior to the scheduled pre-construction meeting
6. 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;
7. That the applicant shall meet all of the Fire Chief’s requirements as outlined in his memo to the Town Planner, dated August 8, 2006, as revised below:
 1. The road shall be properly named and signed with the name of the street being approved by the Police and Fire Chiefs. A Town approved street sign shall be installed as soon as the road is constructed.
 2. The houses shall be properly numbered with the numbers being visible from the street year around.
 3. The pond shall be installed, tested, approved and certified that it meets ISO certification standards before any lots are conveyed or building permits are issued. The certification shall be done through MAI Environmental Services and shall be the developer’s responsibility.
 4. A deeded maintenance easement shall be recorded at the registry of deeds, provided to the Town, and approved by the Town Council allowing access to maintain the pond, hydrant, and piping.
 5. That the applicant shall demonstrate to the Town Engineer that there is adequate room to allow access to maintain the pond once a structure is placed on Lot 14.
 6. If the pond can not meet the above requirements then all houses shall be required to be sprinkled, meeting all applicable sections of the Town of Gorham’s Sprinkler Ordinance.
 7. The sprinkler plans shall be submitted to the State Fire Marshal’s Office and the Gorham Fire Department for review and permitting. The plans shall be submitted to the Fire Department at least two weeks prior to the start of installation of the sprinkler system.
 8. Sprinkler test papers shall be provided at the time a certificate of occupancy is issued.

8. 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;
9. That prior to commencement of construction, the applicant shall provide a maintenance bond in an amount to be established by the Town Engineer against potential damage to Waterhouse Road and that prior to the start of construction the developer will present to the Department of Public Works a video of the existing road surface that will be used to evaluate damages occurring over the construction period.
10. That prior to endorsement of the final plans, the applicant will provide the Town Engineer with additional information to satisfy his concerns that the proposed supply well for the fire pond will not increase the flow of water leaving the site and adversely impact downstream property owners.
11. That prior to Planning Board endorsement of the final plans, the applicant shall submit revised homeowners documents and other required legal documents for final review and approval by the Town Attorney. The applicant shall create a homeowners association or other legal entity acceptable to the Town and shall submit the association documents or declaration creating the association or other legal entity in a form acceptable to the Town Attorney. The documents or declaration shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of all streets within the subdivision, and shall state that the homeowners association and/or the lot owners shall be responsible for all costs related to the street. The applicant shall be responsible for recording the approved documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board; and
12. That the developer shall provide a grading plan for Lot 14 to the Code Enforcement Officer for review by the Town Engineer and Fire Chief as part of the building permit application.
13. That these conditions of approval and the Final Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of any building permits for any of the lots within the subdivision.

9. PRIVATE WAY PLAN – “ASLANS WAY” – off 464 LIBBY AVENUE – by JOEL P. LLOYD & CASSANDRA L. IRISH LLOYD

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 applicant 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 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 and any other public or quasi-public improvements;

4. 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;
 5. That 5x5-inch granite monuments shall be set at the corners of the private way where it intersects with Libby Avenue,
 6. 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;
 7. That prior to the issuance of an occupancy permit for any lot 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 Plan; and
 8. That these Conditions of Approval, the Private Way Plan and the Declaration of Maintenance of Private Way shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.
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10. PRIVATE WAY PLAN – “SKYLINE DRIVE” – off 29 HARDING ROAD – by DURWARD B. WORSTER

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 applicant 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 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 and any other public or quasi-public improvements;
4. 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;
5. 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;
6. That prior to the issuance of an occupancy permit for the lot 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 Plan; and
7. That these Conditions of Approval and the Private Way Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.



**Town of Gorham
OCTOBER 2, 2006
PLANNING BOARD MINUTES**

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

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
NATALIE BURNS, Esq., Town Attorney
BARBARA SKINNER, Clerk of the Board**

Members Absent:

Douglas Boyce, Vice-Chairman

The Chairwoman called the meeting to order at 7:05 and read the Agenda. The Clerk called the roll, noting that Douglas Boyce, Vice-Chairman, was absent.

1. APPROVAL OF THE SEPTEMBER 11, 2006 MINUTES

Thomas Fickett MOVED and Michael Parker SECONDED a motion to postpone approval of the September 11, 2006 Planning Board minutes until they are printed and distributed. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:05 p.m.]

2. COMMITTEE REPORTS

A. Private Way Subcommittee – No report.

B. Ordinance Subcommittee – No report.

C. Sign Ordinance Committee – Ms. Robie reported that a draft of the Sign Ordinance has been circulated to the entire Planning Board, to the Code Enforcement staff and the Town Attorney for review; after revisions from their review, the next step is to forward the ordinance to the Town Council's ordinance committee.

3. CONSENT AGENDA – *Tabled from 09/11/06*

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to take the Consent Agenda from the table and put before the Board for consideration. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:06 p.m.]

A. STREET ACCEPTANCE REPORT – “MOUNTVIEW DRIVE” in NONESUCH FARMS SUBDIVISION – off BURNHAM ROAD - by RISBARA BROS. CONSTRUCTION CO., INC.

Request for street acceptance by Risbara Bros. Zoned R; M1/L14.

B. STREET ACCEPTANCE REPORT – “HAY FIELD DRIVE” in SPRINGBROOK FARMS SUBDIVISION – off DINGLEY SPRING ROAD - by RISBARA BROS. CONSTRUCTION CO., INC.

Request for street acceptance by Risbara Bros. Zoned R; M81/L29.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to recommend acceptance by the Town Council of the two items on the Consent Agenda. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:07 p.m.]

4. PRELIMINARY & FINAL SUBDIVISION PLAN AMENDMENT – “YOUNG/ BARRETT SUBDIVISION” – off 241 GRAY ROAD & JESSICA LANE – by DOROTHY L. SAMUELSON & ERIC SAMUELSON

Request for plan approval of an amendment for a lot line change off 241 Gray Road in a family division of land. Zoned SR; M48/L19 & 19.004.

Gene Schleh, Northeastern Land Surveying, appeared on behalf of the applicants but had no presentation to make.

Ms. Fossum summarized the application, noting that this application is for a lot line shift between two lots in an existing subdivision which was originally approved in 1980 and amended 5 times, making this the 6th amendment. The proposed lot line change is to transfer enough area and frontage to Lot 32A, so that it could be further subdivided in the future, provided there are suitable soils for an on-site septic system. She said, however, that any future subdivision of this lot would require a return before the Planning Board for approval of both a subdivision amendment and a private way amendment of Jessica Lane.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant Dorothy L. Samuelson and Eric Samuelson’s request for a waiver from the submission requirements and the procedures leading up to final subdivision approval under the ordinances. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:10 p.m.]

Mark Stelmack MOVED and Edward Zelmanow SECONDED a motion to grant Dorothy L. Samuelson and Eric Samuelson’s request for approval of a subdivision amendment for a lot line change in the Young/Barrett Subdivision off 241 Gray Road, with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:11 p.m.]

5. PRIVATE WAY PLAN AMENDMENT – “SMALL POND ROAD” – off COUNTY ROAD – by RUDOLPH E. AHLQUIST

Request for plan amendment to extend the private way 570 feet in order to create two new building lots off County Road. Zoned R M15/L24.002

Andy Morrell, BH2M, appeared on behalf of the applicant and explained that the plan is to extend Small Pond Road, which was originally approved in 1996 and amended in 1999, by approximately 570 feet, to create two new lots, as well as serving two existing lots, and that it will be upgraded to the Town’s standards for a private way to serve 2 to 6 lots. Mr. Morrell said that a Tier I Wetland Permit application has been filed with the MDEP, which should be forthcoming in a few weeks, indicated that the applicant is aware that the Board will not sign the Mylar until that permit has been received, and said there will be a plan note added indicating that the project is subject to a Tier I Wetland permit.

As a result of a question from Mr. Stelmack, Mr. Morrell confirmed that it is not a Permit by Rule, and explained the difference between that permit and the Tier I Permit, saying that wetland impacts are never a Permit by Rule, and once 4300 square feet of wetland are impacted, the permit required is a Tier I permit. Mr. Morrell said that the Tier I permit encompasses 4300 square feet to 14999 square feet. In reply to a query from Ms. Robie, Mr. Morrell explained that there are some 15 to 18 different cases where a Permit by Rule can be used, such as for a stream crossing or working within 75 feet of a stream, and there is no permit required for filling zero to 4300 square feet of wetlands.

Ms. Fossum made the staff comments, noting that there is a shed that will be within the private way front yard setback unless it is relocated, so the applicant will have to relocate the shed at some time during the construction, prior to issuance of a building permit. She said that there is an existing Declaration of Maintenance for the private way on file at the Registry of Deeds, which either will have to be repealed and replaced or amended. She said that approval can be conditioned on review by the Town Attorney of a revised Declaration.

Mr. Hughes asked what unresolved issues would cause a project to be placed on a consent agenda. Ms. Fossum replied that the Board has discussed instituting a policy of placing an application on a consent agenda due to incomplete DEP permits and perhaps legal documents. Mr. Parker commented that he believes the Board was talking about those items which would prevent signing a Mylar, that the Board will not sign something that is missing legal documents and Tier I permit approvals. Ms. Robie noted that following this procedure would permit the Board to verify that the legal documents are in order and to review a finalized DEP permit, and the DEP permit number can be added to the plan. Mr. Hughes said that if that logic is followed, this application cannot be approved until it comes back on a consent agenda showing the DEP permit in hand. After further discussion, the Board concurred with Ms. Fossum that the proposed consent agenda process still needs to be definitively established, and in this case, if this application is approved with these Conditions of Approval, the applicant can bring in the DEP permit and submit the revised legal documents for review, and the Mylar can be held until that review is complete. Ms. Robie said that so long as this is not considered a change in how the Board deals with DEP permits, she is OK with it. Ms. Fossum said that in the past, an applicant has not had to provide the Tier I permit before the Board has endorsed the Mylar, which is Condition of Approval #3 on this project, but this has not been done with Tier II or Tier III permits because on a larger project there are likely to be changes between what has been shown on the initial final submission and what is finally approved by DEP.

Mr. Zelmanow confirmed with Mr. Morrell that the total length of the road is 1500 feet, and the 570 figure is an approximation.

Ms. Fossum read the following new Condition of Approval #10: "That the shed shall be relocated out of the setback prior to issuance of a building permit." Mr. Ahlquist approached the podium and told the Board he would move the shed before getting a building permit. Mr. Morrell confirmed that Mr. Ahlquist's attorney John Sawyer has the information necessary to revise the Declaration of Maintenance.

Mr. Parker noted that the sample legal document should be properly edited to delete references to it being a sample document. He also said that approving this item with two issues hanging, a legal document and the DEP permit, runs counter to how he believes applications should be presented, that is, getting the complete package before voting on it. Ms. Robie said she agreed with Mr. Parker in principle but does not believe that the Board has yet finalized any different process.

Michael Parker MOVED and Mark Stelmack SECONDED a motion to grant Rudolph E. Ahlquist's request for approval of an amendment to the private way plan for Small Pond Road to extend the private way 570 feet, with conditions of approval as posted prior to the meeting and discussed with the applicant.

Discussion: Mr. Hughes recommended insertion of the word “approximately” before the length of 570 feet. Mr. Parker, the movant of the motion, did not object to that change, and Mr. Stelmack as seconder seconded the motion with the change.

Michael Parker MOVED and Mark Stelmack SECONDED a motion to grant Rudolph E. Ahlquist’s request for approval of an amendment to the private way plan for Small Pond Road to extend the private way approximately 570 feet, with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce absent).
[7:35 p.m.]

**6. PRELIMINARY & FINAL SUBDIVISION PLAN AMENDMENT / PRIVATE WAY –
“REINHARD SD” – off 67 WESCOTT ROAD – by DENNIS W. & JOANN F. MORTON**

Request for preliminary and final approval of a 2-lot subdivision amendment with a 310’ private way on 4.91 acres. Zoned SR-MH; M87/L9.

Andy Morrell, BH2M, appeared on behalf of the applicants and described the original subdivision, which was approved in 1974, consisting of 5 lots, which then was amended in 1976. He said that the applicants currently own Lot 3, consisting of 4.91 acres, of that original subdivision, and they are proposing to split Lot 3 into 2 lots, creating Lot 6. The original subdivision created a private way across land of Bruce and Diane Morton, owners of Lot 4, which private way the applicants propose to rework to access Lot 6. He said the private way will be upgraded to meet current Town standards for a private way serving 2 to 6 lots, and Bruce and Diane Morton will retain fee interest in the private way.

Ms. Fossum made the staff comments, noting the Town Engineer’s concerns with the applicant’s proposal to extend and reuse the existing 12” culverts, but the applicant has agreed to contact the Town Engineer prior to re-setting the culverts, which apparently are relatively new. Mr. Hughes asked if that should not be a condition of approval, Ms. Fossum agreed that it could be. She said there is a shed that will have to be relocated out of the setback created by the private way. Ms. Fossum noted that the legal documents need revision; that the instructional language in the Town’s sample Declaration of Maintenance should be removed.

Ms. Fossum then said that she and the Code Enforcement Officer had met with the State’s floodplain coordinator recently, and as a result of that meeting she reviewed the floodplain maps for this area. She said that inasmuch as it appears that a portion of this lot falls within the floodplain zone A on the floodplain maps, with a portion of Wescott Brook crossing the very back portion of the lot, the plan will have to have the floodplain delineated with the standard plan note added, which she feels should be done before the Board grants final approval. Ms. Fossum said the applicant is requesting a waiver from submission requirements of high intensity soils mapping and wetlands delineation, and from the procedure leading up to final approval requiring preliminary approval prior to the submission of the final plan application. Due to the floodplain requirements, Ms. Fossum suggested that the Board grant preliminary approval now and have the applicant return after the unresolved issues dealing with the floodplain delineation, the culverts and the shed have been dealt with.

Mr. Hughes commented that at least two conditions of approval need to be drafted dealing with the culverts and the shed, similar to the last application. Ms. Fossum said if the Board’s decision is to grant preliminary approval conditioned on obtaining the additional information being put on the plan, there would be no need to approve these conditions, but if the Board wishes to vote on both preliminary and final approval tonight, additional conditions of approval would be necessary. Mr. Parker asked Mr. Morrell if the condition drafted for the prior item, moving the shed before a building permitted is granted, is satisfactory. The applicant Dennis Morton said he does not want to move the shed before getting approval, and this process is proving to be an expensive one. Mr. Morton said the culverts are less than 2 years old and there is nothing wrong with them. Ms. Robie said that she believes the Town Engineer’s concern is not the current

condition of the culverts, but that they could be damaged were they to be moved as the joints might be impacted. Mr. Morrell said he believes the culverts will have to be dug up during the construction the road, that it will be easier to remove them and put them back in.

Ms. Robie asked what negative consequence would result of not requiring the floodplain to be shown on the plan. Ms. Fossum replied that the Town participates in the flood insurance rate program with FEMA; by adopting those ordinances the Town agreed it would follow those requirements. Ms. Fossum said that this might be a project that could get preliminary plan approval and come back on a consent agenda because it has been discussed and it is not a major subdivision amendment, it is a lot division. Mr. Morrell commented that a 75-foot setback from Wescott Brook has been provided, the buildable area of the lot in question will be some 10 to 20 feet above the Brook, and he understands that there needs to be a note on the plan that the bottom of the home's foundation has to be a foot above the flood plain elevation.

Ms. Robie asked if there are any negative consequences in giving both preliminary and final approval at this meeting and conditioning the drawing of the floodplain on the plan prior to signing the Mylar, saying that she feels compelled to raise the question because of the late timing of the issue. Ms. Fossum replied that she is not familiar with the site, but what Mr. Morrell has said seems rational, yet she would like to walk the area to see what is on the ground. Ms. Fossum said if the Board grants both preliminary and final and something significant changes, the plan has to come back if there is a change to the building envelope and setbacks because both zoning and floodplain need to be considered. Mr. Hughes said he concurs with Ms. Robie, saying that he would like to grant preliminary and final approval with conditioning on the floodplain issue as he does not believe that will have a major effect, and his only concern runs to the 12 inch culvert, for which a condition of approval is required. Mr. Parker said that the Town Engineer's decision on the culverts will govern and the Condition of Approval should reflect that. Mr. Morrell confirmed to Mr. Stelmack that there is no elevation for Wescott Brook at this location, that at issue is a 100-year storm impact from Wescott Brook on the floodplain; Mr. Stelmack indicated that he did not believe any 100-year storm could impact a building envelope above the Brook, and he concurred with Ms. Robie and Mr. Hughes.

Mr. Parker commented that there are three conditions of approval which will prevent the Board's signing a Mylar, even though preliminary and final approval should be granted.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant the applicant's request for a waiver from the submission requirements and the procedures leading up to final subdivision approval under the ordinances. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:50 p.m.]

Ms. Robie summarized the new Conditions of Approval as follows:

9. That the shed will be moved out of the setback prior to the issuance of a building permit;
10. That the floodplain will be drawn on the plan prior to the endorsement of the Mylar by the Planning Board;
11. That when the culverts are dug up, the Town Engineer's recommendations will be followed, and he will be present and will agree that they are suitable; and if unsuitable, the culverts will be replaced by drainage pipe of the material specified in the Code.

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

Thomas Hughes MOVED and Michael Parker SECONDED a motion to grant approval of Dennis W. and Joann F. Morton's request for preliminary and final approval of a subdivision

amendment to the Reinhard Subdivision and a private way to serve one new lot, with conditions of approval as posted prior to the meeting, amended at the meeting and discussed with the applicant.

Discussion: Mr. Stelmack confirmed that the Condition of Approval about moving the shed is identical to the same Condition in the previous item, specifically about moving the shed outside of any setbacks.

Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:55 p.m.]

7. SCHEDULE SECOND MEETING OF THE MONTH, IF APPLICABLE

Ms. Robie stated, and the Board concurred, that inasmuch as there are no carryover items from this meeting, a second meeting in October is not necessary.

8. ADJOURNMENT

Michael Parker MOVED and Edward Zelmanow SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:56 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board

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4. PRELIMINARY & FINAL SUBDIVISION PLAN AMENDMENT – “YOUNG”/”BARRETT SUBDIVISION” – off 241 GRAY ROAD & JESSICA LANE – by DOROTHY L. SAMUELSON & ERIC SAMUELSON

Approved Conditions of Approval

1. That this approval is limited to specific amendments proposed and is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicant 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. All other applicable conditions of approval attached to the original subdivision plan approval and previously granted amendments shall remain fully in effect; and
 3. That these conditions of approval and the Final Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board’s endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of any building permits for any of the lots within the subdivision.
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5. PRIVATE WAY PLAN AMENDMENT – “SMALL POND ROAD” – off COUNTY ROAD – by RUDOLPH E. AHLQUIST

Approved Conditions of Approval

9. 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 applicant 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;
10. That all other applicable conditions of approval attached to the original private way plan approval and previously granted amendments shall remain fully in effect;
11. That the final plan Mylar shall not be endorsed by any members of the Planning Board before the applicant has submitted a copy of the MDEP approved Tier I Wetland Permit to the Planning Department;
12. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
13. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated within the approved private way, the applicant shall arrange pre-construction meeting's with the Planning Department, Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
14. 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 and any other required public or quasi-public improvements;
15. 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;
16. 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;
17. That prior to the issuance of an occupancy permit for the lot 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 Plan;
18. That the shed shall be relocated out of the setback prior to issuance of a building permit;
19. That the revised Declaration of Maintenance of the Private Way shall be submitted to the Town Planner and reviewed and approved by the Town Attorney prior to endorsement of the Final Plan Mylar by the Planning Board and
20. That these Conditions of Approval, the Private Way Plan and the Declaration of Maintenance of Private Way shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.

6. PRELIMINARY & FINAL SUBDIVISION PLAN AMENDMENT / PRIVATE WAY – “REINHARD SD” – off 67 WESCOTT ROAD – by DENNIS W. & JOANN F. MORTON

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 applicant 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 all other applicable conditions of approval attached to the original subdivision plan approval and previously granted amendments shall remain fully in effect;
3. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
4. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated within the approved private way, the applicant shall arrange pre-construction meeting's with the Planning Department, Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
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 and any other required public or quasi-public improvements;
6. 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;
7. 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;
8. That prior to the issuance of an occupancy permit for the lot 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 Plan;
9. That the shed will be moved out of the setback prior to the issuance of a building permit;
10. That the floodplain will be drawn on the plan prior to the endorsement of the Mylar by the Planning Board;
11. That when the culverts are dug up, the Town Engineer's recommendations will be followed, and he will be present and will agree that they are suitable; and if unsuitable, the culverts will be replaced by drainage pipe of the material specified in the Code;
12. That the revised Declaration of Maintenance of Private Way shall be submitted to the Town Planner and reviewed and approved by the Town Attorney prior to endorsement of the Final Plan Mylar by the Planning Board and
13. That these Conditions of Approval, the Amended Subdivision Plan, the Private Way Plan and the Declaration of Maintenance of Private Way shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.

8.