



**Town of Gorham
AUGUST 6, 2007
PLANNING BOARD MINUTES**

LOCATION: Municipal Center Council Chambers
75 South Street, Gorham, Maine

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
EDWARD ZELMANOW**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
THOMAS POIRIER, Assistant Planner
NATALIE BURNS, ESQ., Town Attorney
BARBARA SKINNER, Clerk of the Board**

Members Absent:

MARK STELMACK

The Chairwoman called the meeting to order at 7:15 and read the Agenda. The Clerk called the roll, noting that Mr. Stelmack was absent.

1. APPROVAL OF THE JULY 30, 2007, MINUTES

Douglas Boyce MOVED and Thomas Hughes SECONDED a motion to postpone approval of the July 30, 2007 minutes. Motion CARRIED, 6 ayes (Mark Stelmack absent).

2. COMMITTEE REPORTS

A. Private Way Subcommittee: No report.

B. Ordinance Subcommittee: No report.

C. Sign Ordinance Subcommittee: Ms. Fossum noted that the Town's consultant Mark Eyerman is working on the draft Ordinance.

3. CONSENT AGENDA ITEMS- *No Items*

**4. ZONING TEXT AMENDMENTS – CHAPTER II, GENERAL STANDARDS OF PERFORMANCE, MINERAL EXPLORATION, EXCAVATION, AND GRAVEL PITS and NOISE ABATEMENT
PUBLIC HEARING**

Proposed amendments to the Gorham Land Use and Development Code, Chapter II General Standards of Performance, Section I. Environmental, Sub sections C. Mineral Exploration, Excavation and Gravel Pits, 5) Operational Requirements for New and Existing Pits, and 6) Reclamation, relative to slopes within quarries, noise, and hours of operation, and Subsection 1(H) Noise Abatement for all uses and development. The Planning Board will start the Public Hearing on the draft amendments on July 30, 2007 and if necessary will continue the Public Hearing to August 6, 2007. At the close of the Public Hearing, the Board will forward a recommendation to the Town Council and may include as part of that recommendation proposed changes to the draft amendments.

CONTINUATION OF THE PUBLIC HEARING

Ms. Robie summarized the status of the Board's consideration of these proposed amendments as follows: The Planning Board held a workshop on July 31 and discussed in detail the feedback from the public

hearing, the ordinance amendments as proposed and changes that the Planning Board might recommend to the Council. She said that the covered issues were modifications to the noise standard, reciprocal easements between abutters regarding the noise standard, and the use of 100 feet of a mineral extraction operation for the benefit of an abutting industrial operation to be allowed whenever the industrial operation was allowed to operate. She said that the Board worked through the major part of three of the proposed amendments, but were not able to discuss the quarry slope issue. She said that the Board had hoped to make final recommendations on the three amendments discussed on July 31, however, since the amendments cannot be taken up by the Town Council until September 4 and as some questions have arisen through the process of drafting the language, the Board will not be voting on anything this evening. The Board will continue its workshop this evening to discuss the questions that have arisen and the quarry slope amendment, and will continue the workshop on August 20 to finalized all wording. In addition, the public hearing will be continued to the 20th and vote will be taken on the Board's recommendations to the Council on that date. Limited public comment will be taken at that time between the final discussion of the Board's recommendations and its final vote.

She summarized the key points to which the Board agreed on July 31 as follows:

1. Recommend that the point source requirement be dropped as it is currently not subject to accurate interpretation. It is the Board's opinion and that of the sound engineers with whom the Board has consulted that dropping this provision does not weaken the current noise standard;
2. Recommend that the 75 dBA at 600 cps be replaced with an hourly A-weighted equivalent sound level of 75 decibels (dBA) measured at the boundary. This change allows the measurement under the Gorham code to be a currently accepted measurement used by regulatory agencies.
3. Agree to recommend a restriction of reciprocal noise easements to boundaries between industrial uses; and
4. Agree to recommend the provision to allow operation of 100 feet of a mineral extraction operation that abuts an industrial use that uses the mineral extraction material under the same hours as the industrial use; however, recommend restrict language preventing mining, crushing or screening of materials during any extended hours of operation.

Ms. Robie said that legal opinion is needed on whether an industrial use that is subject to an air quality license must comply with all other DEP requirements. The Board will also consider an addition to the noise standard that further restricts noise at the boundary between a residential area and an industrial area, and the Board needs to clarify in its discussion if it meant to restrict the noise easements between mineral extraction operations only to boundaries with non-residential uses.

Ms. Robie then opened the Public Comment period for 15 minutes.

PUBLIC COMMENT PERIOD OPENED:

Russell Sprague, 184 Libby Avenue, asked about the process and how the Council will vote upon the Board's recommendations, whether they will vote on the entire package or item by item. Ms. Robie said she is not able to answer that question, and deferred to the Town Planner or the Town Attorney. Ms. Fossum said it is entirely up to the Council as to how they will vote. Mr. Sprague said he will reserve the rest of his comments until August 20.

Irwin Novak, 82 Middle Jam Road, commended the Board for its hard work. He recommended language about laser backup beepers be included in the ordinance, saying that repetitive noise syndrome can be more detrimental than the occasional loud noise. He said he would like to see such language applied to both existing and future gravel and/or quarry activities.

Jennifer Everett, 184 Libby Avenue, said that a comprehensive modern noise standard needs to be created for Gorham, 75 decibels is too loud and a project of this magnitude needs to have a stricter noise standard, particularly at the property lines with 24 by 7 operating hours. She suggested that the Planning Board

recommend that a moratorium be placed on industrial development until the noise standard is revised and updated. Ms. Everett said that allowing a property owner to permanently waive a noise standard will restrict what that piece of property can be used for in the future. She said that moving the asphalt plant is not worth changing the code and will only benefit a few residents on Mosher Road while increasing the impact on a larger number of residents by moving it closer to Gateway Commons and Libby Avenue. She suggested that the applicant go to the Board of Appeals and prove undue hardship rather than having the ordinance changed.

PUBIC COMMENT PERIOD ENDED.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to continue the public hearing to August 20, 2007.

Discussion: Mr. Fickett asked if a time certain should be stated; Ms. Robie said that the time would be included in the public notice.

Motion CARRIED, 6 ayes (Mark Stelmack absent).

**5. PRELIMANERY AND FINAL SUBDIVISION PLAN – OLDE CANAL BUSINESS PARK –
off MOSHER ROAD/ROUTE 237 –by GRONDIN, PROPERTIES, LLC.**

PUBLIC HEARING

Request for preliminary and final approval of a proposed new 9-lot commercial/industrial park on 56+/- acres off Mosher Road/Route 237. Zoned I (M34/L3).

Owens McCullough, Sebago Technics, appeared on behalf of the applicant and gave a brief overview of the project. He said that application has been made to the DEP for a Site Location of Development Permit and an NRPA permit and DEP has indicated they will be drafting the permits this month. There will be 3 paved parking spots off set at the end of the proposed Olde Canal Way turnaround and a 20-foot pedestrian easement from that parking area to a proposed access easement along the Cumberland and Oxford Canal and towpath. Mr. McCullough said they have obtained a traffic movement permit from the Maine DOT and explained that at 50 and 75% buildouts of the project, a reassessment must be made for the need for a left turn heading southerly. He said that at some point it is anticipated that they will trip the need for a left turn lane, and a preliminary design has been developed and approved by DOT. The design includes tapers in both directions and stamped pavement, with widened radii at the entrance for truck movements in and out of the site. He said the project will be served by public utilities, including water, sewer and gas. There is a pump station with a 15 by 15-foot above-ground building on property of Abbott Mosher, sized with the capacity to handle this development as well as some future development on Route 237. The force main is in, with a parallel main installed. He said that the legal documents have been provided with easement descriptions, rights-of-way easements, and an offer of cession, as well as association documents providing that the association will maintain all stormwater facilities within the project. Mr. McCullough requested both preliminary and final approval this evening.

Mr. Poirier gave the staff comments, noting that at the May 2007 meeting the Board granted the applicant's waiver request of the Class B high intensity soils survey requirement and the ordinance requirement for access to adjoining land, as well as permitting the applicant to ask for both preliminary and final approval at the same meeting.. He said that staff would like the opportunity to review the DEP's permit conditions prior to final approval to make sure that no drainage maintenance or monitoring requirements have been placed on the Town. He said that the legal documents have been submitted and are in the process of being reviewed by staff, and staff recommends that the Board postpone granting preliminary and final approval until staff has reviewed the DEP permits as well as the required easements.

Mr. Boyce asked Mr. McCullough what the trigger of vehicle trips is which will require the left turn to be constructed. Mr. McCullough read from the permit that will obligate the applicant to assess the traffic at 50, 75 and 100% buildout, saying that the trip generation estimated for the project is based upon 210,000

square feet of total building buildout of the project, and at 100,000 square feet the analysis indicated that the left turn lane warrant probably will be tripped. Mr. Boyce asked Mr. McCullough if he could have that number available at any subsequent meeting at which he may appear.

Mr. Boyce suggested that the Board consider granting preliminary approval this evening to benefit the applicant as the property is marketed. Ms. Robie said that the Board has agreed not to grant final approval until the MDEP permit is in hand and the Board has had a chance to see it. Mr. McCullough asked if this would be a consent agenda item; Ms. Robie replied that if the Board wished to discuss the item it would be taken off the consent agenda, but if there were no questions, the Board would simply vote to approve it. Mr. McCullough asked if before it becomes a consent agenda item, he could work with staff to have a preconstruction conference. Ms. Fossum replied that holding a preconstruction prior to approval would be difficult, but certainly estimates could be developed for the schedule of improvements and staff could do a preliminary review of that.

Mr. Parker commended the applicant and its engineer for the respect shown for the wetlands and for providing public access to the back of the lot. Mr. McCullough confirmed to Mr. Parker that DEP would probably require applicants to work together to deal with any southerly change required in Route 237 resulting from development across 237 from this site.

Ms. Fossum confirmed to Mr. Hughes that in addition to not having the DEP permits, this item will go on a consent agenda because the legal documents need a final review. She said that with the new stormwater 500 regulations, DEP has been putting monitoring requirements on towns indirectly through the DEP permitting process. Ms. Fossum said that the Town of Gorham has not been accepting the transfer of monitoring requirements when roads have been accepted, so the association documents need to be reviewed very carefully.

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

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant preliminary approval for Olde Canal Business Park subdivision plan off Route 237. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:06 p.m.]

Thomas Hughes MOVED and Edward Zelmanow SECONDED a motion to place the application of Olde Canal Business Park subdivision on a future consent agenda for final approval. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:07 p.m.]

6. SUBDIVISION AMENDMENT #2 - TALL PINES PHASE II – by GILBERT HOMES, INC. Request for approval of a subdivision amendment to add a new lot #20. Zoned SR. (M77/L48.118).

Bill Thompson, BH2M, appeared on behalf of the applicant and introduced Erik Clapp, Sevee & Maher, hydrogeologist for the project. Mr. Thompson referred to the Board's concerns as expressed during its June meeting about the well areas being limited on Lots 18 and 20, with a recommendation that further review be done as to what options would be available should a well's water quality not be up to State standards. Mr. Thompson noted that Mr. Clapp's June 29, 2007 letter recommends that testing be done over a three year period and states that if water quality standards are being met, then water quality monitoring may be discontinued. Mr. Thompson commented that water quality is not an issue of wells already installed in the area.

Mr. Poirier gave the staff comments, stating that Mr. Clapp's letter indicates that changes in final grading, site layout and shifting of leachfield locations could alter the results of Sevee & Maher's evaluation, and therefore they have recommended that water quality be tested at the time of well installation and periodically to verify that water quality standards are being met. Mr. Clapp recommends six additional testing times over 3 years for Lots 17, 18 and 20, and wells not meeting standards should have a water treatment system installed.

Ms. Robie noted that Condition of Approval #4 states that Gilbert Homes, Inc., shall be responsible for well water testing.

Thomas Fickett MOVED and Douglas Boyce SECONDED a motion to grant a waiver to allow preliminary and final approval at the same meeting. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:14 p.m.]

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

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant preliminary and final subdivision approval of the 2nd Subdivision Amendment to Tall Pines II Subdivision, with conditions of approval posted prior to the meeting and discussed with applicant. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:15 p.m.]

Douglas Boyce MOVED and Michael Parker SECONDED a motion to excuse Mr. Fickett due from participation in the following item due to his friendship with the applicant. Motion CARRIED, 5 ayes (Mark Stelmack absent, Thomas Fickett abstaining). [8:16 p.m.]

**7. SPECIAL EXCEPTION - MOBILE VENDING UNIT – 351 SEBAGO LAKE ROAD – by HOWARD ROSS
Request for Special Exception approval to locate a mobile vending unit at White Rock Outboard for the sale of coffee, muffins, hot dogs, etc. by Howard Ross. Zoned RC (M91/L15.001).**

Howard Ross explained his application and indicated that of the six Special Exception standards his application is required to meet, there are two which directly apply: (1) vehicular and pedestrian traffic – all vehicle parking will be off the roadway, service will be for existing traffic going by the site, Route 237 can handle traffic flow well, hours will be 7:00 a.m. to 2:00 p.m. so no lighting will be needed, the school in the area is an elementary school and the students are not permitted to walk along the roadway. The second Special Exception relates to water pollution, sedimentation, erosion, and the unit proposed is self contained. Insofar as Special Exception 3 is concerned, the unit will only use steam to heat a hot dog and there will be no smoke, dust or airborne pollutants. The unit will not create a noise nuisance to neighboring properties, all trash will be removed daily from the site, the unit will be cleaned off site, and there are no spawning grounds, fish, aquatic life or wildlife habitat near the unit.

Mr. Poirier noted that the application had been circulated among staff for review, and no requirements or comments from staff were received.

Ms. Robie called for a vote on each Special Exception Standard as follows:

Finding 1. Relating to hazards to vehicular or pedestrian traffic:
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused).

- Finding 2.** Relating to water pollution, sedimentation, erosion:
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused).
- Finding 3.** Relating to unhealthful conditions because of smoke, dust, or other airborne contaminants.
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused).
- Finding 4.** Relating to the creation of nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, etc.
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused).
- Finding 5.** Relating to the waste disposal systems being adequate for all solid and liquid wastes generated by the use.
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused).
- Finding 6.** Relating to damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, etc.
The Board concurred unanimously that this application meets that standard: 5 ayes (Mr. Stelmack absent, Mr. Fickett excused). [8:21 p.m.]

Edward Zelmanow MOVED and Michael Parker SECONDED a motion that the Board adopt the responses provided by the applicant to the Special Exception criteria and to grant Howard Ross special exception approval to operate a mobile vending unit at 351 Sebago Lake Road with conditions of approval posted prior to the meeting and discussed with the applicant. Motion CARRIED, 5 ayes (Mark Stelmack absent and Thomas Fickett excused).. [8:22 p.m.]

8. SCHEDULE OPTIONAL MEETING IF NEEDED

The Board concurred that there should be another meeting on August 20, 2007.

9. ITEMS REQUIRING BOARD SIGNATURES

10. ADJOURNMENT *(to Workshop, time permitting)*

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Mark Stelmack absent). [8:24 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2007

6. SUBDIVISION AMENDMENT #2 - TALL PINES PHASE II – by GILBERT HOMES, INC.

**Approved
Conditions of Approval**

1. That this approval is limited to the specific amendment 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. That all other applicable conditions of approval attached to the original subdivision plan shall remain fully in effect; and
3. That the applicant's engineer shall verify to the Code Enforcement Officer and the Compliance Officer prior to Lots 18 & 20 occupancy permits being issued that the locations of bedrock water supply wells and on-site septic locations are consistent with the approved amended subdivision plans and with the Sevee & Maher Reports dated July 14, 2006 & March 5, 2007.
4. That Gilbert Homes, Inc. shall be responsible for well water testing of the bedrock supply wells on lots 17, 18, and 20 at the time of installation and periodically for three years to verify water quality standards are met as per Erik M. Clapp, Ph.D, Sevee & Maher, Project Hydrogeologist's letter dated March 29, 2007 to William Thompson, BH2M;
5. That the Gilbert Homes, Inc. shall be responsible for the installation a home water treatment system designed and installed by licensed and trained personnel in residences on Lots 17, 18 and 20 where water quality standards are not being met;
6. That the amended subdivision plan and these 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.

7. SPECIAL EXCEPTION - MOBILE VENDING UNIT – 351 SEBAGO LAKE ROAD – by HOWARD ROSS

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 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 operation of mobile vending unit.