



Town of Gorham
October 1, 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
MARK STELMACK

Staff Present:

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

Member Absent:

EDWARD ZELMANOW

The Chairwoman called the meeting to order at 7:05 and read the Agenda. The Clerk called the roll, noting that Edward Zelmanow was absent.

Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to suspend Planning Board rules to add an item to the Agenda. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [7:06 p.m.]

Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to add an item to the Agenda as requested by Hans Hansen for the purpose of allowing Planning Board review and approval of MDOT directed changes to the original 2006 Planning Board approved intersection improvements at County Road, South Street and Blue Ledge Drive in association with the Stargazer Subdivision. Discussion: Mr. Fickett inquired if the appropriate abutter notification had been made. Ms. Fossum replied that notification was made on September 28, 2007. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [7:07 p.m.]

Michael Parker MOVED and Douglas Boyce SECONDED a motion to add the new item before Item 6 on the Agenda. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [7:08 p.m.]

1. APPROVAL OF THE SEPTEMBER 17, 2007 MINUTES

Thomas Fickett MOVED and Michael Parker SECONDED a motion to approve the September 17, 2007 minutes as printed and distributed. Motion CARRIED, 4 ayes (Douglas Boyce and Mark Stelmack abstaining as having been absent for the September 17, 2007 meeting; Edward Zelmanow absent). [7:09 p.m.]

2. COMMITTEE REPORTS

A. Private Way Subcommittee: No report.

B. Ordinance Subcommittee: Ms. Robie reported that there has been no meeting of this committee.

- C. **Sign Ordinance Subcommittee:** Ms. Robie noted that the Board had had a workshop on the sign ordinance prior to this meeting and which will resume following the regularly scheduled Planning Board meeting. She said that the draft is being revised based on feedback from the community.
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3. CONSENT AGENDA

Ms. Robie noted that there are no items on the Consent Agenda but inquired of staff as to the status of The Crossing application, which had been referred to the Consent Agenda at the Board's September 17, 2007 meeting. Ms. Fossum replied that the legal documents to be reviewed by the Town Attorney are not yet ready.

4. ZONING TEXT AMENDMENT – CHAPTER VII, IMPACT FEES, Section IIIA, RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE PUBLIC HEARING

Proposed amendment to the Gorham Land Use and Development Code, Chapter VII, Impact Fees, Section IIIA, Recreational Facilities and Open Space Impact Fee, to add a new paragraph 4.

Ms. Fossum said that when the Recreational Facilities and Open Space Impact Fee ordinance was adopted, it was thought that the Little Falls Recreation Area was fully built and would not be developed further. However, there is now an opportunity for further improvements at the recreation area, the need for which is driven by the growth occurring in Gorham. The Town Council has forwarded this language to the Board for public hearing in order for the Council to consider the use of impact fees collected for future improvements at the Little Falls area.

Mr. Parker asked how many other recreational areas there are. Ms. Fossum replied that the first is the continued development of the Chick property, the area of the Narragansett School and public safety building; the second is phase 2 of the recreational facilities at the new Gorham Middle School; the preparation of a master plan for the reuse and development of the Weeks Road property; and the third is the master plan for the Gorham Savings Bank property and to then begin to develop recreational facilities in accordance with the approved master plans. The Open Space portion of the impact fee will be used to acquire land, conservation easements and/or development rights and improved conservation land. Mr. Stelmack confirmed with Ms. Fossum that this needs to be inserted into the Code because the facilities receiving improvements from the impact fees need to be identified.

Mark Eyerman, Planning Decisions, told the Board that when the Impact Fee was originally developed, the Little Falls Recreation Area was not included because the understanding was that the property was completely built out and there was no possibility for developing additional facilities. However, as Ms. Fossum had noted, Mr. Eyerman said that it has recently come to the light that there is some potential to do some additional work there to expand the capacity at the site, and so the proposal is to add the Little Falls area into the list of recreational facilities where impact fees can be used to make improvements.

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

Thomas Hughes MOVED and Michael Parker SECONDED a motion to recommend adoption of the proposed amendments to Chapter VII, Impact Fees, Section III Recreational Facilities and Open Space Impact Fee #2, A. Description of the Improvements to include utilization of impact

fees for improvements to the Little Falls Recreation Area. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [7:16 .m.]

5. SITE PLAN AMENDMENT – NAPPI DISTRIBUTORS, INC.

Request for approval to add a 16-foot diameter gazebo and for approval to changes to the approved landscape plan and sign. Zoned Industrial, M32/L13.

Chris Tullmann, Sebago Technics, appeared on behalf of the applicant and explained that the major change to the site plan is the addition of a proposed 16-foot gazebo on the front lawn area and said that some of the landscaping has been reconfigured around it. He said that the other change is that the proposed monument sign has been replaced by an internally lit LED message sign. Mr. Tullmann said that the plan has been labeled “First Amended Site Plan.”

Mr. Boyce asked for details about the landscaping changes at the entrance. Mr. Tullmann replied that during construction, a large amount of ledge was encountered beyond what was originally anticipated, so the trees planned at the entrance have been removed, to be replaced by various fruit trees at another location. Mr. Tullmann said that extensive landscaping is proposed in front of the building, around the gazebo and adjacent parking areas, but asked that the trees to have been planted along the embankment of the stormwater pond closest to Route 25 not be required so that the sign is more visible from Route 25.

Ms. Fossum said that the applicant’s requested revisions will require amendments to three of the plan sheets that were originally approved by the Board in November 2006. She said that instead of the originally proposed 12’ long by 6’ high slab based sign, the applicant is now requesting approval of a sign that has already been installed, which is a double-sided sign that stands 12 feet high, supported by two post-style legs, with the top of the sign interior illuminated with sign cabinet lexan facts and vinyl graphics, and the center of the sign having a 3 by 7 foot double-sided full color display message center that uses light-emitting diodes (LEDs) to present color messages and images. Ms. Fossum noted that the applicant is seeking approval of a 16-foot diameter gazebo that will be located adjacent to the northwest corner of the distribution facility, with a concrete sidewalk connecting the gazebo to a perimeter sidewalk, which connects to the front and side entrances of the facility. Ms. Fossum then discussed the changes to the landscaping plans as requested by the applicant, as follows: 1) changes to the center front entry and parking area landscaping; 2) changes to the easterly side entrance drive landscaping with the removal of 6 approved red maples along the access drive and substituting 12 fruit trees in other locations; and 3) changes to the stormwater pond embankments landscaping with the removal of all 5 trees to allow greater visibility of the sign.

Mr. Boyce said he is not concerned about landscaping changes in the interior of the site, but is particularly concerned about the signage. He said that the sign ordinance subcommittee became aware of the proliferation of LED signs and that LED signs are not necessarily in keeping with their surroundings or with other signs, so language has been developed in the proposed draft sign ordinance specifically geared toward allowing but regulating the use of electronically illuminated readerboard signs so that they are not offensive or out of character with other commercial signage. He said his personal view of the applicant’s sign is that it is not at all in keeping with what is intended to be part of Gorham’s sign ordinance once it is passed by the Town Council. He asked that the applicant look at the draft ordinance addressing LED signs and perhaps consider talking to the sign vendor of this sign to modify it accordingly. Mr. Tullmann said that the sign is programmable but does not believe it is that different from other signs in the area and would be happy to work something that would fit with the future ordinance.

Mr. Hughes said he likes the sign but referred to the opinion expressed by the Code Enforcement Officer, who in a memo dated September 28, 2007, said “I would therefore conclude that the existing sign(s) will be compliant if the time and temperature size can be reduced to comply with state statute.” He said that putting

up a sign that was not approved by the Planning Board was not appropriate, but he is not in favor of requiring that the current sign be torn down or with requiring that the sign be in compliance with the proposed sign ordinance. He said that the current sign should be brought into compliance with the state statute. Mr. Hughes said he agrees with Mr. Boyce about the internal landscaping changes.

Mr. Parker concurred that it would not be appropriate to hold the applicant to an ordinance that could be far down the road, and said he is not offended by the sign the way it is. Mr. Stelmack also agreed that the applicant cannot be held to a new sign standard that could be months or even years away and the applicant has agreed to negotiate the brightness, etc. Ms. Robie replied to a query from Mr. Stelmack that every structure on the plan needs to be approved by the Board, and the gazebo is not on the plan.

Ms. Robie said she understands that the sign cannot be held to the forthcoming ordinance, but said she takes very seriously the Code Enforcement Officer's statement about the size of the time and temperature, that the entire face of the sign switches from the graphic and message to the time and temperature, back and forth, and presents the appearance of motion, rapid change, which is prohibited in the current sign ordinance, and which she finds very distracting. Mr. Tullmann said that they will check to see if the sign can be programmed so that the message remains while only the time and temperature change.

Ms. Robie said she has no objections to the landscaping proposed around the front of the building and the gazebo, but all of the trees that are not going to be planted are the tall, street trees that from a community perspective add to the appearance; they have been replaced by much shorter trees. She said that what was discussed was the view shed down by the road, which has now significantly changed. Mr. Tullmann said that the stormwater pond embankment area was not perceived as a good growing area because of the riprap required. Ms. Robie asked if Mr. Tullmann would agree to move some of the larger trees toward the north and in back of the pond; he said that a couple of them might be brought back in there. Mr. Frank Nappi said his concern is that placing some of the trees on the side of the detention pond could possibly break the walls of the pond as the trees mature. Ms. Robie, Mr. Nappi and Mr. Tullmann discussed the areas where the trees might go to re-provide the buffer and create the entrance viewscape. Mr. Nappi said that the sign will not flash.

Mr. Parker said he does not believe the applicant can be held to a future sign ordinance, but appreciates that the applicant is willing to work with staff and the Board on the issue of the sign.

Mr. Boyce noted that a more appropriate place to discuss the present sign would have been before the project was approved and constructed. Mr. Tullmann confirmed to Mr. Stelmack that the sign at a minimum will conform to the state statutes. Mr. Tullmann told Ms. Robie that they would look at bringing the brightness of the sign into conformance with the proposed ordinance. Ms. Robie noted that this sign would be nonconforming by the passage of the new sign ordinance, which will make it very difficult when considering future similar signs. Mr. Hughes said he is not comfortable with asking the applicant to conform to something that has not even been voted on yet, that it is inappropriate because what is in the proposed ordinance now may not be there when it is enacted.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant approval of Nappi's request for amendments to Plan Sheets C-2, C-7 and C-8 of the approved Site Plan with conditions of approval as posted prior to the meeting and discussed with the applicant.

Discussion: Mr. Boyce said he will vote in support of the item because it appears to meet the requirements of the current Code, but said he hopes that the applicant will be aware of any upcoming changes to the Code should they be enacted and remains hopeful that the applicant will modify the operation of the sign so as to be compliant with said ordinance. Ms. Robie added that she hoped that the red maples and pin oak will appear on the plan.

Motion CARRIED, 6 ayes (Edward Zelmanow absent). [7:56 p.m.]

NEW ITEM #6:

Request from Hans Hansen to add an item to the Agenda for the purpose of allowing Planning Board review and approval of MDOT directed changes to the original 2006 Planning Board approved intersection improvements at County Road, South Street and Blue Ledge Drive in association with the Stargazer Subdivision. Zoned R/SR; M3/L22

Thomas Greer, Pinkham & Greer, gave a brief overview of the changes as proposed by the Maine Department of Transportation as a result of its review of the previously approved intersection plan. Mr. Greer noted that MDOT would not allow the left turn westbound into Blue Ledge Road. In addition, MDOT requested a right hand turn lane coming out of the project which will not trigger the signal. The slip lane into northbound Route 114 will be curbed with an island and 3 various yield signs in order to allow traffic taking a left into northbound Route 114 to have the right of way.

Bruce Munger, HNTB, the Town's traffic peer reviewer, discussed the changes to the overall traffic plan, traffic movements, and signalization sequencing phase details with the Board.

Mr. Greer noted that the DOT is changing the speed limit from 45 mph to 35 mph in the area down past O'Donal's Nursery. Ms. Fossum noted that the MDOT has reinstated the left turning lane from Route 22 eastbound into northbound Route 114.

Hans Hansen approached the podium and indicated his desire to get started within the week. He complimented the Town Planner, the Planning Department and the Planning Board for acting swiftly on this issue.

Mr. Boyce asked the Town Attorney to confirm that the easements rights have been addressed. Ms. Burns replied that there is a proposed condition of approval to require the establishment of easements providing adequate access to and from the residential lots along Blue Ledge Road via the commercial condominium access drive, and also the right to maintain the access drive. She said that any easement can be released upon agreement of the parties.

Mr. Munger confirmed that these changes will improve the current situation at this intersection.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant approval of the proposed amendments to the intersection improvements at County Road, South Street and Blue Ledge Road in association with the Stargazer Subdivision as presented to the Gorham Planning Board on October 1, 2007 with conditions of approval as posted prior to the meeting and as discussed with the applicant tonight.

Discussion: Hans Hansen indicated that he has no problems with the Conditions of Approval. **Motion CARRIED, 6 ayes (Edward Zelmanow absent).** [8:50 p.m.]

6. SIGN ORDINANCE AMENDMENTS

Referral of draft Sign Ordinance to Town Council Ordinance Committee.

Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to postpone indefinitely the referral of the sign ordinance to the Town Council Ordinance Committee. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [8:55 p.m.]

7. SCHEDULE OPTIONAL MEETING IF NEED.

The Board concurred that no optional meeting is required.

8. ITEMS REQUIRING BOARD SIGNATURES

9 ADJOURNMENT

Michael Parker MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Edward Zelmanow absent). [9:15 p.m.]

Respectfully submitted,

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

5. SITE PLAN AMENDMENT – NAPPI DISTRIBUTORS, 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 minimus changes which the Director of Planning may approve;
2. That the applicant will make changes to the plan as outlined in the Planning Department's Review Memo dated September 26, 2007 prior to the Planning Board's signing,
3. That all other applicable conditions of approval attached to previous site plan approvals shall remain fully in effect; and
4. That these conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board approval and a dated copy of the recorded Decision Document shall be returned to the Town Planner within fifteen (15) days of the date of recording.

ITEM 6 – HANSEN –Proposed Amendments to Intersection Improvements sat County Road, South Street and Blue ledge Road in association with the Stargazer Subdivisions./

**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 minimums changes which the Director of Planning may approve;
2. That all other applicable conditions of approval attached to previous site plan approvals shall remain fully in effect;
3. That the applicant/developer shall provide the provide items required in the Town Engineer’s review memo dated September 28, 2007 and listed below:
 - a) That the developer will provide to the Town four (4) complete sets of the Final Plans as approved by the Maine Department of Transportation.
 - b) That the estimated amount of \$ 154,615.00 appears adequate for the purposes of bonding. This amount is based upon an estimate provided by Shaw Brothers Construction Inc. and is based upon the DOT design dated September 2007. Any revisions of this design will require an update of the anticipated bonding amount. The final form of the bond or other performance guarantee shall be reviewed and approved by the Town Attorney and the Town Planner.
 - c) That prior to the preconstruction meeting the developer shall provide the Town with a schedule of work for the traffic improvements.
 - d) That the developer will provide the Town with a Scope of Work within an Inspection Services contract to the Town engineer for review and approval. In the event the Scope does not provide for adequate inspection and documentation, the Town reserves the right to hire, at the developer’s expense, a third party engineer to assure, to the Town’s satisfaction, that the work is completed according to approved plans and specifications.
 - e) That the developer will furnish to the Town of Gorham 2 sets (DPW and Planning) of “As-Built Plans” as submitted to the Department, however, they need not be reproducible.
4. That within 30 days of the Planning Board’s approval and prior to the conveyance of any lots within the subdivision the applicant shall provide revised legal documents that provide adequate access to and from the residential lots along Blue Ledge Road via the commercial condominium access drive and also the right to maintain the access drive for review and approval by the Town staff and the Town Attorney;
5. That these conditions of approval 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.