



**Town of Gorham
December 10, 2007
PLANNING BOARD MINUTES**

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

Members Present:

**DOUGLAS BOYCE, Vice Chair
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK**

Staff Present:

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

Members Absent:

Susan Robie, Chairwoman
Edward Zelmanow

Staff Absent:

Thomas Poirier, Assistant Planner

In the absence of Susan Robie, Chairwoman, Douglas Boyce, Vice Chairman, assumed the chair and called the meeting to order at 7:20 and read the Agenda. The Clerk called the roll, noting that the Chairwoman, Susan Robie, and member Edward Zelmanow were absent.

Thomas Fickett MOVED and Michael Parker SECONDED a motion to suspend the rules in order to hear Item 5, (a discussion of a subdivision plan/private way, "Hunter Estates/Shyanne Way," off North Gorham Road, by Paul S. Smith), before Item 4, (mineral extraction/site plan, "Brickyard Quarry and Asphalt Plant," off Route 237/Mosher Road, by Shaw Brothers Construction, Inc.) Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent). [7:21 p.m.]

1. APPROVAL OF THE MINUTES FROM NOVEMBER 5, 2007 AND NOVEMBER 19, 2007 MEETINGS.

Thomas Fickett MOVED and Thomas Hughes SECONDED a motion to approve the minutes of November 5 and November 19, 2007, as printed and distributed. Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent). [7:22 p.m.]

2. COMMITTEE REPORTS

Ordinance Review Committee – No report due to the absence of Ms. Robie.

Sign Ordinance Sub-Committee – Mr. Boyce reported that the draft of the Sign Ordinance is currently scheduled to be discussed with the Town Council at a meeting to be set during the month of January.

Private Way Sub-Committee – No report.

3. SITE PLAN AMENDMENT– "THE CHURCH" – off 29 SCHOOL STREET – by FOUR BROTHERS, LLC, MICHAEL SALVAGGIO, JR., MEMBER PUBLIC HEARING

Request for approval of an amendment to add a 376 square foot deck located on the rear of the building. Zoned VC & UR; M102/L83 & 112.

Mr. Boyce announced that the applicant has requested that the item be postponed.

Thomas Fickett MOVED and Michael Parker SECONDED a motion to postpone the item. Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent). [7:22 p.m.]

5. DISCUSSION: SUBDIVISION PLAN / PRIVATE WAY PLAN -- “HUNTER ESTATES” / “SHYANNE WAY” off North Gorham Road – by Paul S. Smith.

Discussion of a proposed 4-lot residential subdivision on 6+/- acres off North Gorham Road
Zoned: SR; M93/L29.

Paul Smith, applicant, asked the Board for four waivers of ordinance requirements as follows:

1. Right of way continuation into undeveloped adjoining property requirement because it would impact his ability to create a 4th lot;
2. High intensity soils survey requirement because he has submitted a medium intensity survey and does not believe a high intensity survey is required;
3. Nitrate plume analysis requirement because he does not believe the proposed septic systems are located near adjacent wells; and
4. Installation of overhead electrical service due to cost issues.

Ms. Fossum gave the staff comments, noting that the applicant is proposing a 4-lot subdivision with a 666-foot gravel private way, onsite wells and septic systems, and overhead power. She noted that the existing gravel road and paved apron, which has been constructed to prevent erosion, have been built to the Town’s 2 to 6 lot gravel private way and paved apron standards.

Ms. Fossum referred to the applicant’s 4 waiver and exemption requests, saying that that insofar as the requirement for a right of way continuation is concerned, the ordinances require access to adjoining land for all subdivisions, stating that the Planning Board “shall provide for road continuation to limit unnecessary curb cuts and/or to provide for street access to undeveloped adjoining property by dedication on the subdivision plan of a 50-foot wide right of way to the boundary of adjacent property unless the Planning Board determines that it is not in the public interest to require access to adjoining land and (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for the continuation.” She noted that in this case, staff’s opinion is that a right of way could be developed by extending the private way, which is an issue to be considered by the Board.

Next, Ms. Fossum spoke of the applicant’s request that he not be required to conduct a nitrate study to analyze the plumes from the proposed septic systems and to identify the well exclusion zones to ensure that the septic systems would not exceed DEP’s regulations at down gradient property lines. She said that staff believes that the applicant needs to have a Class B high intensity soils survey done.

Finally, Ms. Fossum said that at the site walk the Board asked the applicant to provide a cost comparison for the installation of underground electric versus overhead electrical utilities, which the applicant provided in 2006, with figures estimating underground costs at \$15,052.62 and overhead costs at \$5,800.00. The applicant’s engineer has since outlined overhead electric costs at \$16,000 as of May 8, 2007. Ms. Fossum pointed out that the ordinance does not specifically require underground utilities and that it is only with cluster subdivisions is an applicant required to install underground utilities.

After considerable discussion, the Board came to the following conclusions:

1. Following input from the Town Attorney, the Board concurred that the phrase “undeveloped adjoining property” does not apply in this instance, as the abutting properties are developed with houses, so the right of way waiver requirement does not apply.
2. **Michael Parker MOVED and Thomas Hughes SECONDED a motion not to waive the nitrate plume analysis and Class B high intensity soils survey requirements. Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent).** [7:58 p.m.]
3. The Board and the applicant agreed that there will be overhead electric service into the development and underground service to each house lot.

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

4. MINERAL EXTRACTION/SITE PLAN – “BRICKYARD QUARRY” AND ASPHALT PLANT – off ROUTE 237/MOSHER ROAD – by SHAW BROTHERS CONSTRUCTION, INC.
PUBLIC HEARING

Request for approval of a proposed quarry operation and hot-mix bituminous batch plant, on 125.5 acres +/-, on land of S.B. Aggregates, LLC. Zoned Industrial, Map 31/Lot 15.

Mr. Boyce said that while Susan Robie, the Chairwoman, is absent this evening, this public hearing continuation will be conducted in the same fashion as Ms. Robie has done in the past. He said that there will be another public hearing as the applicant will be returning with a complete submission after hearing tonight’s input from the Board and the public. He said the applicant will revise the application and submit it, the application will be distributed out to peer review and then come back before the Board, at which point hopefully a complete determination can be made with the public hearing continued to that time.

Mr. Boyce noted that a 30-minute time period will be reserved for additional public comment after the Board has concluded its business, and the Board will, at 9:00 or 9:30, make a decision as to what time the proceedings will conclude this evening.

Mr. Boyce stated that there has been a submission received on December 5, 2007 for this meeting from the applicant’s noise consultant, S.E. Ambrose & Associates, responding to 11 review comments from the Town’s peer review consultant, Scott Bodwell, at Resource Systems Engineering. Ms. Fossum confirmed that Mr. Bodwell has received Mr. Ambrose’s submission, is present at tonight’s meeting and is prepared to respond to questions the Board may have. Mr. Boyce asked the applicant if he had any comments to make on the subject of noise.

Walter Stinson gave a brief overview of the process used by Mr. Ambrose to include all types of noise from both the asphalt plant and quarrying operations, such as rock drills, crushing operations, truck and front end loader operations, and the burner on the asphalt plant. Mr. Stinson said that inasmuch as the Town’s noise ordinance regarding noise is somewhat liberal the applicant agreed to follow the more stringent state standards at eight selected critical noise locations for both daytime and nighttime conditions, with noise mitigation recommendations for those areas where standards could not be met. Mr. Stinson noted, however, that in the final analysis this is a performance-based standard once the project is in operation.

The Board then asked Mr. Bodwell to comment on the applicant’s noise consultant’s most current submission.

Mr. Bodwell prefaced his remarks by saying that he has not yet completed his written comments to Mr. Ambrose’s December 5, 2007 submission but made some general observations. He said that such items as

the additional proposed noise berms, additional noise sources for analysis, noise barriers for drilling and quarry loader activity, indicate a commitment to perform periodic noise testing as the quarry evolves. Mr. Bodwell said reasonable efforts have been made to control temporary perimeter quarry activities and the exhaust stack for the asphalt plant loader has been lowered, lowering the source height. Mr. Bodwell advised Mr. Boyce that noise performance standards information for the asphalt plant burner and blowers has been provided by Mr. Ambrose, which Mr. Bodwell had addressed in his peer review submittal, stating that they appear to be reasonable. Pending is the review of noise control berm layout drawings just received to determine if they are adequate. His recommendation would be noise mitigation within 30 days of a noise standard being exceeded. Mr. Bodwell said that while some things remain to be done, progress has been made and the commitment seems sincere on making sure limits are met. He said that the applicant is demonstrating the capability of meeting the standards.

Mr. Bodwell replied to a query from Mr. Parker that certain events, such as critical periods of initial operation and during intermediate phases, would dictate when testing should be done and said that he recommends a condition of approval for testing to confirm that decibel levels are being met, in particular at the northerly, Queen Street, perimeter. Mr. Bodwell advised Mr. Hughes that he sees no problem issues with the applicant's noise mitigation proposal. Further discussion then ensued with the Board, Mr. Bodwell and the applicant concerning the issue of noise monitoring or measurement, with the understanding that further review and discussion is necessary.

Mr. Stelmack inquired if implementation of a noise monitoring program during site operations would be useful to determine conformance with target standards. Mr. Bodwell replied that a noise monitoring program would provide a good level of assurance for conformance with standards. Mr. Shaw stated that he is not willing to conduct an expensive noise monitoring program. Mr. Stelmack said that if a noise monitoring program were to be conducted, it might be designed to be one of relatively modest expense.

Stretch Break from 9:25 to 9:35

Mr. Boyce said that it would be in the Board's interest, the applicant's interest and the public's interest to conclude discussion on the open issues still remaining. He said that in the event there was anyone from the public who wishes to speak at the end of the proceedings, they would be permitted to speak at that time.

Mr. Boyce asked if the applicant or his representative have anything else to add relative to stormwater issues. Mr. Stinson said there was nothing to add. Mr. Boyce then introduced Steve Bushey

Steve Bushey, DeLuca-Hoffman Associates, gave a brief overview of his involvement with the project, saying that his focus has been primarily on stormwater management issues, erosion and sediment control issues, and general plan overview, such as how stormwater management will be handled over the very long period of time that this project will be in operation. He said that the system to be designed needs to be designed for the "worst case" scenario of a system changing because of the change in quarry size in the future. He said that the systems that will be built will be vastly oversized for a very long period of time, and he has found them overall to be adequate. He indicated that there are still some technical issues to be resolved.

Mr. Parker read from the report submitted by Gerald Hayward with regard to the asphalt plant that "...water runoff from the impervious areas should be directed through an oil/water separator and collected for processing prior to being discharged to the detention pond. This will remove all the oil and fuel oil leakage from the asphalt pad and paved roadways pursuant to Multi-Sector General Permit for Stormwater Discharges. The water will need to be processed on site or be properly disposed of by a qualified contractor. Additionally any chemical spills that may occur would be directed through the oil separator. If designed

properly this would also function as a barrier to the environment, allowing easy cleanup if a spill should occur.” Mr. Bushey said that his experience with an oil/water separator is that it requires a closed system for capturing stormwater and the effectiveness relative to the amount of water going through them is always questionable. He said they are useful if the contributing area is not large, and in this case, it might be possible to use the culvert off Route 237 as a capture site by putting a valve on the pipe so in the event of a spill it could be turned off. Mr. Bushey said that additionally the applicant has certain monitoring obligations under its Stormwater Pollution Prevention Control Plan with the state, such as capturing and taking samples of stormwater runoff. Mr. Bushey said he will provide written recommendations for simpler measures than an oil/water separator as part of his review process to the applicant.

The rest of the Board had no questions of Mr. Bushey.

Mr. Stinson told the Board that his recollection about site lighting information still to be provided is photometrics and catalog cuts on the light fixtures.

Mr. Boyce asked staff if there are any items still requiring additional information from the applicant. Ms. Fossum said that the items have been outlined in staff’s October Review Memo, outlined in staff’s memos for workshops and public hearings, as well as a list of items that Susan Robie has enumerated from her notes as a result of the last several workshops and meetings. She said that the applicant needs to keep track of what is still lacking.

PUBLIC COMMENT PERIOD OPENED:

Melinda Shain, 12 Timber Ridge Road, Gateway Commons Subdivision, expressed approval of Mr. Bodwell’s suggestion to conduct quarterly monitoring to demonstrate compliance.

Russell Sprague, 184 Libby Avenue, said that the Town needs to hire its own hydrogeologist to review that portion of the application, and that the recommendations from John Rand, hydrogeologist hired by the Concerned Citizens of Gorham, were not given adequate consideration.

Jennifer Everett, 184 Libby Avenue, advocated periodic air quality monitoring similar to that for noise monitoring. She referred to residents’ concerns about dust from the quarry and emissions from the asphalt plant and that periodic monitoring can be accomplished with adequate pre-planning. She also spoke about the Clean Air Act as a “starting point” for standards of comparison.

Mr. Stinson said that an air emissions permit is required for both the crusher and the asphalt plant, which will show what emissions are allowed. Mr. Shaw responded to a question from Mr. Boyce, saying that the DEP has to visit every site at least every other year, larger facilities every year, unless they get a complaint when they will do it more often. Mr. Shaw said there is visual training required for emissions from the crushers and generators, as well as for truck emissions.

PUBLIC COMMENT PERIOD ENDED. (10:00 p.m.)

Ms. Burns, Town Attorney, suggested that an appropriate motion at this time would be to postpone this matter until the peer reviews have been finalized on the additional information to be submitted by the applicant. Mr. Stinson said their understanding is that they would go through the list of items still required, and from that the final submission addressing all of those and staff’s memos would be submitted, at which point the peer reviewers would respond. Ms. Fossum said that staff will provide the applicant with a comprehensive list by the end of the week. She also said that once the applicant’s final submission is received, it will take approximately four to six weeks for final review of the applicant’s submittal, and the earliest possible return before the Board would be the meeting in February.

Michael Parker MOVED and Thomas Hughes SECONDED a motion to postpone this matter until the peer reviews have been finalized on the additional information to be submitted by the applicant. Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent). [10:05 p.m.]

6. SCHEDULE OPTIONAL MEETING IF NEEDED.

None scheduled.

7. ADJOURNMENT.

Thomas Fickett MOVED and Michael Parker SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Susan Robie and Edward Zelmanow absent). [10:13 p.m.]

Respectfully submitted,

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