

# Town of Gorham

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PLANNING DEPARTMENT  
ROOM 251

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## GORHAM PLANNING BOARD March 12, 2007

### RESULTS

1. **APPROVAL OF THE FEBRUARY 5, 2007, MINUTES**  
APPROVED

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2. **COMMITTEE REPORTS**
  - A. **PRIVATE WAY COMMITTEE – NO REPORT**
  - B. **ORDINANCE COMMITTEE - NO REPORT**
  - C. **SIGN ORDINANCE COMMITTEE – REPORTED by Susan Robie**

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3. **CONSENT AGENDA**  
NO ITEMS

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4. **SITE PLAN / CHANGE OF USE – “THE CHURCH” – off 29 SCHOOL STREET – by FOUR BROTHERS, LLC, MICHAEL SALVAGGIO, JR., MEMBER**  
APPROVED with Conditions

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5. **FINAL SUBDIVISION & SITE PLAN – “PRESUMSCOT COVE CONDOMINIUMS” / “ISABEL DRIVE” – off 697 GRAY ROAD - by RAY PEPPERS REALTY, LLC, TIMOTHY R. PEPPERS, MEMBER**  
POSTPONED to April 2, 2007, Meeting as Consent Agenda Item

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6. **PRELIMINARY & FINAL SUBDIVISION PLAN AMENDMENT – “SOUTHWOODS SUBDIVISION” –off 25 OAK WOOD DRIVE – by KEVIN A. & KATHLEEN D. JENKINS**  
APPROVED with Conditions

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7. **PRIVATE WAY PLAN - “BRODEIS WAY” – off 206 SOUTH STREET - by JASON A. & JESSICA CURTIS**  
APPROVED with Conditions

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8. **PRELIMINARY SUBDIVISION PLAN – “THE CROSSING SUBDIVISION” / “OLD DYNAMITE WAY” / “HIDDEN BROOK DRIVE” – off GRAY ROAD – by MJF DEVELOPMENT GROUP, LLC, MICHAEL J. FERRANTE, MEMBER**  
APPROVED PRELIMINARY

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9. **DISCUSSION: AMENDED SUBDIVISION / MINOR SITE PLAN – “K.L. JACK INDUSTRIAL FASTENERS” - 11 JENNA DRIVE – by K.L. JACK & CO., INC.**  
DISCUSSED

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10. **PRE-APPLICATION CONFERENCE: SUBDIVISION PLAN AMENDMENT – “DAVIS FARM ESTATES SUBDIVISION” - OFF DAVIS ANNEX – BY JUSTIN A. & KELLY L. DEARBORN**  
DISCUSSED

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11. **SCHEDULE OPTIONAL MEETING IF NEEDED**  
NO MEETING SCHEDULED

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12. **ADJOURNMENT – 11:00 p.m.**



**FEBRUARY 5, 2007  
PLANNING BOARD MINUTES**

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

**Members Present:**

**SUSAN ROBIE, CHAIRWOMAN  
DOUGLAS BOYCE, VICE CHAIR  
THOMAS FICKETT**

**MARK STELMACK**

**Staff Present:**

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

**THOMAS HUGHES**

**EDWARD ZELMANOW**

**Members Absent:**

**MICHAEL PARKER**

The Chairwoman called the meeting to order at 7:00 and read the Agenda. The Clerk called the roll, noting that Michael Parker was absent.

**1. APPROVAL OF THE JANUARY 8, 2007, MINUTES**

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to approve the January 8, 2007 minutes as written and distributed.

**Discussion: Mark Stelmack said he would like to add two items to the summary of issues prepared by Chairwoman Susan Robie, culled from the Minutes regarding the Brickyard Quarry application during the January 8, 2007 meeting. The two items are (1) what types and levels of odors are expected from the quarry, and (2) there will be a need for restrictions negotiated between the Town and the developer with regard to the request for periodic 24 by 7 quarry plant operations during peak asphalt producing projects that are currently foreseen but not defined. These two items become Nos. 32 and 33 to the list prepared by the Chairwoman, listed herein below.**

Summary of Issues prepared by Susan Robie, Chairwoman, as discussed at the meeting and identified in the Minutes of the Planning Board Meeting January 8, 2007, relating to Shaw Brothers' proposed quarry and asphalt plant on Route 237 at the site of LaChance Brick:

1. Request for a copy of the required air emissions license(s) to be submitted to the town
2. Request for information regarding height, location of asphalt plant vis-à-vis visual impact.
3. What will be the effectiveness of 20-foot berm in reducing noise?
4. How will the applicant address the noise of backup alarms and banging tailgates?
5. There is a possibility of using laser activated motion detectors, request to applicant to pursue with OSHO or mining control agency
6. Point Source Noise requirement in Ordinance not addressed
7. Request to see data that comprises the weighted average of noise level cited
8. Request for a cross section or elevation showing the height and protection of the berm
9. Request for cross sections of the site elevations
10. Request for perspective types of views to show the geometry size and scale of both the equipment and the fixed facilities such as the storage bins.
11. Request for information how the new pit will fit in with Shaw Brothers' overall business operation.
12. Issue of increased truck traffic on 237 and in the town was cited as a concern multiple times.

13. Question as to when of when DEP permits will be sought and granted
14. Request for staff to secure the services of a noise peer review engineer.
15. Request for legal opinion as to whether the internal agreement with LaChance Brick to absolve Shaw Brothers from meeting the code's noise requirements would be legal.
16. Request for information regarding all permits required for the pit and asphalt plant
17. Request for elevation of the pit when overburden is removed vis-a-vis Gateway Commons
18. Request to understand variances requested, i.e. 100 buffer instead of 200
19. Request to clarify setback from the highway.
20. Request to clarify what equipment on site and off site is included in the air emissions cited.
21. Request to discuss the early operation of the quarry and the noise impacts of the early phase.
22. What is the impact of quarry on possible new residential expansion and the proposed sewer line extension along Mosher Road?
23. What is the impact of the quarry of surface water, groundwater and water table levels?
24. What pollution would result from spills? How will spills be handled?
25. What is the impact of silica dust exposure?
26. What chemicals will be emitted from the plant/and or and what are impacts on human health—silica dust, benzene, formaldehyde?
27. Question of the acoustic value of pine trees?
28. What has been the impact on property values of similar plants in similar towns
29. How will the noise generated affect the quality of life of the residential neighbors
30. Will truck traffic be allowed on Queen Street?
31. Will there be light pollution from the facility?
32. Are there standards for odors?
33. There will need to be qualifications negotiated between the Town and the developer with regard to developer's intention to operate the plant 24x7 during peak asphalt producing projects that are currently foreseen but not defined.

**Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion that the minutes be accepted with the two-item amendment as presented. Motion CARRIED, 6 ayes (Michael Parker absent). [7:04 p.m.]**

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**Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to take Item 6, SUBDIVISION / SITE PLAN – “THE VILLAGE WALK CONDOS” – off 162 SOUTH STREET – by KATHLEEN & TODD D. MORRISETTE, out of order and to table the Item at the request of the applicant. Motion CARRIED, 6 ayes (Michael Parker absent). [7:05 p.m.]**

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## **2. COMMITTEE REPORTS**

**D. Private Way Subcommittee:** No report.

**E. Ordinance Subcommittee:** No report.

**F. Sign Ordinance Committee:** Mrs. Robie announced that the first draft of the Sign Ordinance was presented to the Town Council's Ordinance Committee. A meeting of the Sign Ordinance Committee will be held following this meeting in order to discuss methods of obtaining input from the business community and the general public.

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## **3. CONSENT AGENDA – No Items**

**4. SITE PLAN / CHANGE OF USE – “THE CHURCH” – off 29 SCHOOL STREET – by FOUR BROTHERS, LLC**  
**PUBLIC HEARING**

Request for a proposal to locate a restaurant, bakery, deli, coffee house, pizza shop, function hall & wellness center on the premises of the current School Street United Methodist Church. Zoned VC & UR; Map 102/L 83.

Rob McSorley, Sebago Technics, appeared on behalf of the applicant and introduced Michel Salvaggio. Mr. McSorley described the project as a re-use of the existing church with a mixed use facility including a 2540 square feet of deli and sports bar, 2300 square feet of events banquet center, and approximately 3070 square feet of wellness center. Mr. McSorley reported that the applicant entered into an agreement with the abutting 7-11 Convenience Store in order to construct approximately 6,000 square feet of sidewalk and associated parking area at the rear of the building to provide 19 parking spaces for this project. In addition, Mr. McSorley said they feel they have satisfied the Village performance standards requirement with only minor modifications to the exterior of the building, which include two new doorways on the front of the building to access the facility and some signage. He said they are currently working with staff relative to stormwater for the site, noting that the area where the parking lot will be currently drains directly down to Cross Street, and they are working with the Public Works Director to mitigate the impact of possible additional impervious area. Mr. McSorley discussed the proposed lighting for the parking lot, in the form of four parking lights, two located at the corner of the lot at the entry area and two at the back. Mr. McSorley said that the owner would like to allow deliveries during off peak hours to the front of the building, as opposed to proposed Condition of Approval No. 11, that would limit commercial deliveries to the Cross Street parking lot entrance.

Michael Salvaggio come to the podium and asked the Board for a waiver of the 60 space parking requirement. He discussed a survey he had made in May and June of last year which he believes demonstrates his contention that 25% of his business will be USM related. Mr. Salvaggio spoke about the two new entrances proposed for the brick wall of the building facing Main Street, and distributed some preliminary sign sketches. Mr. Salvaggio was told by the Board that internally lit signs are not permitted in the Village center, and the only waiver that can be granted by the Board has to do with size.

Ms. Fossum gave the staff comments, and spoke about the agreement obtained by the applicant with 7-11 to create an easement to allow the construction of a 19-space parking lot to be used by both 7-11 and the applicant, accessed off of Cross Street, as well as allowing 7-11 access to its dumpster. She said that staff recommends that commercial deliveries be made via this parking lot, noting in particular the hill on School Street which restricts sight distance for oncoming cars, whereas the applicant would like to be allowed to have deliveries made to the front of the building during off peak hours. She noted that no building elevations have been provided for the proposed changes to the front of the building. Ms. Fossum also spoke about stormwater issues, commenting that both the Public Works Director and the Town Engineer have asked the applicant’s engineer to provide storm water calculations for pre and post development runoff in order to determine if the proposed “drywell” will be adequate, especially as there is no existing stormwater system nearby. She said that lighting plan information has been provided and appears to be adequate.

Mr. Salvaggio said that he would like to have deliveries made to the front of the building of his bar supplies, as the topography of the site to the rear of the building would make these deliveries difficult. He indicated that he would have finalized signage illustrations by the end of the week.

Mr. Stelmack commented that exterior lighting seems to meet staff’s approval and it would appear that final sign designs will be forthcoming. He asked the applicant about the exterior changes proposed; Mr.

Salvaggio described the contemplated two new doors and perhaps a new entrance where the cross is located in the brick wall. Ms. Fossum said that building elevations are required to show what is proposed to the building facade.

Mr. Stelmack asked the applicant's engineer to address the 13 performance standards in the Village Center District. Referring to the January 31, 2006 letter he had addressed to the staff, Mr. McSorley read each standard and how he believes that it has been met, as follows:

1. Access into the Site: The project will have no access from Main Street; the only access will be Cross Street.
2. Egress from the Site: The project will not egress into Main Street; the only egress will be Cross Street.
3. Vehicular Circulation between Parking Lots: Based on the location of the proposed parking lot, it is not feasible to connect the proposed parking lot to parking lots on adjacent properties.
4. Parking Locations: Based on the usable portion of the leased site, the proposed parking will encroach into the setbacks, and, therefore, they are requesting a waiver for parking in the setbacks.
5. Reduction in Off Street Parking: The project proposes to re-use an existing building, the applicant has negotiated with an adjacent property owner to provide additional parking, but requests a waiver in the required parking.
6. Relationship of the Building to the Street: The building is existing and no expansion is proposed toward School Street.
7. Pedestrian Relationships and Facilities: The building currently has access to the existing sidewalks along School Street, no sidewalks exist on Cross Street, and the project proposes new pedestrian access from the new parking, with handicapped accessibility into the building.
8. Motor Vehicle Facilities and Services: The project is not proposing motor facilities or service.
9. Street Facades: The existing building does not front on Main Street.
10. Signs: Signs will be submitted separately and will meet Town Ordinances.
11. Roof Lines: The building is existing and no changes are proposed to the roof lines.
12. Building Materials: Only minor changes are proposed and will be in harmony with the existing structure.
13. Lighting: Site lighting will be installed in the new parking area and will meet the Ordinance criteria.

Mr. Stelmack said that of the thirteen performance standards, he believes that the applicant has met all except for Nos. 4 and 5, related to parking, No. 10, signs, for which additional information is still required, and No. 12, Building Materials, also requiring additional information.

After discussion, the Board concurred unanimously that no restrictions on deliveries need be imposed, and directed that Condition of Approval No. 13, requiring that all commercial deliveries to businesses located in the Church be made accessing the site through the Cross Street parking lot entrance, be eliminated. Mr. McSorley suggested the use of a temporary loading zone sign limited to off peak hours. Ms. Fossum advised that temporary loading zone permits are secured through the Town Council, and suggested that the applicant discuss this issue with the Police Chief for his recommendations on the appropriate hours.

Mr. Zelmanow noted concerns he has with the agreement with 7-11: the piece of property that is sought to be improved is not specifically described with a legal description of book and page number in the Registry of Deeds; while the tenant can restrict the buyer's use of the improvements, there is nothing keeping the landlord from restricting the buyer's use of the improvements as well; there is confusion in the use of terms "owner" and "landlord;" and Item 8 contains a reference to "his" which should be more clearly defined. Mr. Zelmanow said that the agreement should be tightened up to protect the buyer. Mr. McSorley said there a legal description has been prepared, and the applicant will be finalizing a revised agreement, and Mr. Zelmanow's comments will be addressed in that revision.

Ms. Fossum confirmed with Mr. Hughes that the front section of the 7-11 parking lot does not conform with the parking setback standards because in the opinion of the Code Officer, this area is grandfathered. In response to a query from Mr. Stelmack, Mr. Poirier read from the Code, Chapter II, Section 2, A7) c), page 132 that “A system of surface drainage shall be provided in such a way that the water run-off shall not run over or across any public sidewalk or street.” Ms. Fossum said that this stormwater sheet flows across the street unless it can be shown that the drywell is appropriately sized and will function adequately. Mr. McSorley said that the Public Works Director acknowledges that there is no way to prevent stormwater from running off site, but they are trying to mitigate any additional effects of the proposed parking lot relative to flooding off site.

**PUBLIC COMMENT PERIOD OPENED:**

Allene Bowler, has a family member who is a business abutter at 14 Main Street. Mrs. Bowler asked if the parking area will be black topped. Mrs. Bowler pointed out an area on Fort Hill to the north of the building where deliveries could be made.

**PUBLIC COMMENT PERIOD ENDED.** [7:58 p.m.]

**Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to approve the applicant’s request for a waiver reducing the off street parking standards from the required 60 parking spaces to 19 parking spaces pursuant to Chapter II, Section 2, A8) in the Land Use Code.**

Discussion: Ms. Robie expressed concern that stormwater mitigation efforts could eliminate one of the parking spaces in the proposed lot, and suggested that the motion be amended to say 18 parking spaces. She said that she believes the applicant has made as much, if not more, provision for parking as other businesses in this area, and 18 spaces will be adequate. It was suggested that the wording be changed to “**a minimum of 18 parking spaces.**” Mr. Zelmanow as movant and Mr. Boyce as seconder agreed to the amendment.

**Motion as amended CARRIED, 6 ayes (Michael Parker absent).**

Ms. Robie said that in light of the major items of information missing from this application, the application is not complete enough to be placed on an agenda as a consent agenda item. Mr. Fickett noted that the applicant needs to be given specific direction about the missing items of information relating to performance standards 4, 5, 10 and 12. It was agreed that standards 4 and 5 have been dealt with by virtue of the Board having granted the applicant’s parking waiver request and the Code Officer’s decision about grandfathering of parking in the setbacks. The requirement for deliveries being made only to the back of the site has been removed. Ms. Robie noted that three items are still missing: elevations of the building and materials to allow the Board to decide if the proposed changes conform to the Village character; signs; and stormwater management. Mr. Boyce added a fourth item, the concerns voiced by Mr. Zelmanow about the agreement with 7-11. Ms. Fossum suggested that the applicant also talk to the Police Chief about the loading zone; however, Ms. Robie noted that that will not be a restriction on this application.

**Thomas Fickett MOVED and Douglas Boyce SECONDED a motion to postpone the item until the applicant is ready to return. Motion CARRIED, 6 ayes (Michael Parker absent)..**[8:00 p.m.]

Mr. Zelmanow suggested that the public hearing be reopened when the applicant returns; Ms. Fossum said that the item will be readvertised as a public hearing.

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**5. SITE PLAN AMENDMENT – “MOODY’S COLLISION CENTER” – 200 NARRAGANSETT STREET – by SHAWN MOODY**

Request for modifications to the approved site plan. Zoned ND; M39/L22 [& M19/L1&2; M39/L9,11,13,15,17.001,24,24.001 & 28].

Shawn Moody explained to the Board that there were some items he would like modified in the original site plan approved by the Board in February of 2006. The first change Mr. Moody requested was to the buffering and landscaping requirements of the Narragansett Development District, asking for a waiver to those requirements so that this facility would more closely match two other facilities the applicant has. At Ms. Robie's request, Mr. Moody said that the biggest difference deals with the requirement of a buffer yard 10 feet in width along an arterial having at least one canopy tree, two understory trees and three shrubs per 100 feet of frontage. Mr. Moody said he is proposing to have plantings back closer to the building rather than closer to the roadway and fewer trees along the front. In response to a query from Ms. Robie, Ms. Fossum said that the Board is not permitted to waive the performance standards in the Narragansett District. Mr. Moody said he believes his proposed buffering conforms to the paragraph (d) in the section which permit alternative buffers and screening "equivalent to or exceeding that provided by the above requirements."

After discussion, the Board was unanimous in their conclusion that they do not have the authority to waive the buffering and landscaping standards along the arterial, there is no reason to deviate from the approved plan, and Mr. Moody's proposed plan is not "equivalent to or exceeding" the performance standard governing those requirements.

**Douglas Boyce MOVED and Thomas Hughes SECONDED a motion that the Planning Board is not able to grant a reduction in the landscaping buffer requirements along Narragansett Street. Motion CARRIED, 6 ayes (Michael Parker absent). [8:22 p.m.]**

Ms. Fossum referred to the items at issue in the December 7, 2006 memorandum from the Town Engineer wherein Mr. Braun discusses changes to the drainage network that should be submitted to the DEP for their evaluation of any potential impact, the stone dust car access road and required remediation plan for the field, and the side buffer which was cleared and grubbed by the owner.

Mr. Moody explained that the stone dust area was incorrectly shown on the plan and the ground cover is gravel. Mr. Boyce noted that provided there are no other impacts as yet not discussed, he does not have a problem with one form of aggregate surface being use in place of another. Mr. Stelmack suggested that the issue be resolved by having the owner provide the Town Engineer with a remediation plan.

The Board discussed the issue of the side yard buffer having been cleared and grubbed. Mr. Moody said the tree line is still there but the understory has been removed. Ms. Fossum said that a complicating factor is the fact that that is not the side property line. Ms. Robie said if there is no residential use of the parcel, there is no issue; Mr. Hughes, Mr. Fickett, Mr. Boyce, Mr. Zelmanow and Mr. Stelmack all concurred.

Ms. Robie noted that there are two issues remaining: that drainage changes are provided to the DEP, and Mr. Moody provides the Town Engineer with a remediation plan for the first vehicle storage area as suggested by Mr. Stelmack. She said that the item could then return on the Consent Agenda, with the exception of the waiver not being granted to reduce the front yard buffering.

**Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to put two items on the Consent Agenda for this application: (1) that the owner will provide the drainage changes to the DEP and (2) that a remediation plan for the area where the stone dust was erroneously purported to be is agreed upon between the applicant and the Town Engineer. Motion CARRIED, 6 ayes (Michael Parker absent). [8:35 p.m.]**

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## 7. SCHEDULE OPTIONAL MEETING IF NEEDED

The Board concurred that no subsequent meeting this month need be scheduled.

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**8. ADJOURNMENT**

**Thomas Fickett MOVED and Edward Zelmanow SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Michael Parker absent). [8:36 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board

\_\_\_\_\_, 2007