



**Town of Gorham**  
**PLANNING BOARD WORKSHOP NOTES**  
**February 4, 2008**

A workshop meeting of the Gorham Planning Board was held on Monday, February 4, 2008, at 6:00 p.m. in the Municipal Center Council Chambers, 75 South Street, Gorham, Maine.

In attendance were Susan Robie, Douglas Boyce, Thomas Fickett, Thomas Hughes, Michael Parker, Mark Stelmack and Edward Zelmanow. Also present were Town Planner Deborah Fossum, Assistant Planner Thomas Poirier, and Clerk of the Board, Barbara Skinner.

**1. Review and Approval of the January 7, 2008 Workshop Meeting Notes.**

There were no comments or corrections to the January 7, 2008 Workshop Meeting Notes.

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**2. Chairman's Report.**

Ms. Robie reported that a Town Council Ordinance committee meeting was held on January 16, 2008, where the committee re-ordered its list of priorities as follows:

1. Review Land Use and Development Code and make recommendation to the Town Council (referred by Town Council 11/14/06).
2. Review the boundaries for all zones.
3. Develop the standards and priorities for money received from TDRs.
4. Revise the Suburban Residential District to encourage more compact forms of development.
5. Develop proposal to enact limitations on large scale development in the Rural Districts.
6. Review request from Hans Hansen to implement an impact fee or approve a TIF to help pay the cost of traffic improvements at the intersection of Routes 22 and 114 (referred by Town Council 11/14/06).
7. Review request for a study of exhaust, noise, and speed mitigation for the Libby Avenue/Brackett Road construction project. (referred by Town Council to Committee on December 4, 2007.)
8. Develop and recommend a proposal for an impact fee to help pay the cost of the Little Falls Conveyance Project (referred by Town Council at 1/2/07 Meeting).
9. Review a proposal from a citizen for the development of an outdoor lighting ordinance.

Ms. Robie said there was a brief discussion about the proposed noise ordinance which the committee proposes to take up at their February 25<sup>th</sup> meeting with the Town's noise consultant, either Charlie Wallace or Scott Bodwell. She said that the committee asked for copies of all of the state standards on noise, as well as noise ordinances of surrounding communities.

Ms. Robie then discussed the project Status Report, referring to the 4<sup>th</sup> listed project, that of C&C Family LLC air strip major site plan. She said that the plan is designed to restore the land prior to any attempts to construct the air strip, which they are prohibited from doing by court order. As this is an enforcement issue, the Code Enforcement Officer's remedy is to get an approved major site plan to restore it to its original condition from the Planning Board. Ms. Fossum noted that the court's order makes it clear that the right-of-way on Rust Road has to be cleared. Ms. Robie noted that one of the requirements of a major site plan is to hold a site walk or to formally state that a site walk will not be held. In this instance, the site walk would be to look at the fill that was moved in order to determine what has to be restored; however, the Board never saw it in its original state and there is not much to see now because of snow cover, so a site walk may be without value. Ms. Fossum said that the site is about a ½ mile walk in, and Rust Road itself is not in good shape for travel.

Mr. Stelmack commented that if there were any photos, they would be useful in determining how the site looked before anything was done. Ms. Fossum said that staff can search in aerial records but what might

be visible is uncertain. Mr. Fickett suggested contacting the abutter whose land was impacted to see if they have any photos. Ms. Fossum said a site plan has been submitted and is under review by staff, and it could be March or April before it comes before the Planning Board. Mr. Parker said he would not want to make a decision on having a site walk until he has seen a proposed plan. Ms. Robie asked if a site walk would be of use. Mr. Stelmack said it would be more difficult to evaluate the site if the Board does not see it as it is now, so he would be in favor of seeing it and asking the applicant to walk the Board through how it used to look and describe what will be done to make it look like it used to look. Mr. Hughes agreed, saying the site plan will mean more to him if he has had a chance to see it. Ms. Robie noted that the Board will have to wait until it is possible to see the site. Mr. Zelmanow asked that a copy of the court order be provided to the Board for its review. At Mr. Parker's suggestion, Ms. Fossum said that the Code Enforcement Officer will be encouraged to attend the site walk.

At Ms. Robie's request, Ms. Fossum updated the Board on the status of Shaw Brothers' Brickyard quarry and asphalt plant application, saying that the applicant submitted its materials on January 8, 2008. This submission has been transmitted to staff and outside reviewers, and a meeting was held with the applicant's engineer, a representative of the applicant, and Town reviewers so the applicant's engineer could walk everyone through the submission to show peer reviewers where answers to various questions can be found in the submission. Ms. Fossum said she contacted Town and outside reviewers today to determine where they are with respect to their review comments, and the outside reviewers said they would get their comments in by the end of the week. She said that in terms of project order, the Shaw Brickyard application is number 4 on staff's list, there are three other projects ahead of it being reviewed, which are the applications from Paul Erskine, Risbara Brothers' Libby Avenue subdivision project and C&C Family air strip site plan. She said she anticipates that staff's comments and those of outside reviewers will be pulled together by the end of next week.

Ms. Robie noted that in the Board's discussion with Shaw Brothers, the Board identified some 12 to 14 conditions of approval which must be crafted to deal with items requested by the Board and agreed to by the applicant. She asked the Board how to facilitate the crafting of those conditions. Mr. Hughes said it would be most useful if those conditions were already written out before the applicant comes back before the Board. Ms. Fossum said it is staff's intention to have them drafted beforehand and in the agenda memo. Mr. Parker said the Board should be able to tweak those conditions, not originate them. Ms. Robie suggested that the Board can either tweak the conditions during a regular meeting or there could be a workshop meeting set for that purpose either before or after the public hearing. Ms. Fossum said that as there are two applications, one for the asphalt plant and one for the quarry, the conditions of approval will probably be lengthier than normal. Ms. Robie noted that some of the conditions of approval are directly related to the Special Exception criteria if they are not part of the plan. Ms. Fossum said that what staff intends to do is draft findings of fact and draft conditions of approval for both the asphalt plant and the quarry and the different reviews required in advance of a public hearing, and then, as a result of the public hearing and discussion with the applicant, the Board could tweak the proposed conditions and finalize the findings on each of the approval criteria or standards that have to be met. Additionally, Ms. Fossum said there may be new conditions that arise out of that discussion. Ms. Fossum said that she believes the Board would need at least a week to review the proposed conditions and findings.

The Board concurred that a special night should be set aside to hold the meeting and public hearing on the Shaw application, and that the meeting would be held one week after the Board members receive their packets from staff. In response to a query from Mr. Boyce, Ms. Robie said that the next time the Shaw application comes before the Board, they will be asked to provide the salient features of their two new submissions, a public hearing will be held at which time everyone who wishes to speak will be permitted to do so, after which the Board will do its usual deliberations, a vote will be taken on all of the Special Exception criteria, the Board will have to discuss whether these applications meet the differing review criteria for each application, and the Board will have to vote on the applications. Ms. Robie said she does not believe that physically all that can be accomplished at one meeting, and said that she would rather

craft the conditions of approval to meet Special Exception criteria at a workshop either before or after the presentation of the application, rather than at the regular meeting. Mr. Fickett commented that the Shaw application should be the sole item under discussion at the regular meeting on its own given night; Mr. Hughes concurred. Ms. Robie said that she and Ms. Fossum will establish a schedule of events and when those events will occur.

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**3. Proposed Amendments to Chapter II, Section II, Parking, Loading and Traffic, (a)(7) of the Land Use and Development Code allowing gravel parking lots in limited circumstances.**

Continuing discussion on proposed amendments to the Town's parking standards, referred to Planning Board for Public Hearing by the Town Council on November 13, 2007.

During the January 7, 2008, workshop, the Board agreed on the following proposed language allowing gravel parking lots in limited circumstances:

“(c) For commercial, industrial and institutional uses (excluding retail or service businesses) that will generate ~~an estimated average of thirty five (35) vehicle trips or less per day~~ no more than thirty-six (36) vehicle trips per business day or for Rural Entrepreneurial Uses that meet the Performance Standards of Chapter II, Section VII, Subsection E.2. in the Suburban Residential District or of Chapter II, Section VIII, Subsection E.2. in the Rural District, parking areas shall be constructed with a suitably durable ~~surface~~ material (including gravel) that minimizes dust and is appropriate for the type of land use activity. Surfacing, grading and drainage shall be required to facilitative groundwater recharge by minimizing impermeable ~~pavement surface~~ and stormwater run-off. ~~Gravel parking lots~~ Any parking lots constructed in conformance with this provision shall have a paved apron 30 feet in length commencing at the existing edge of pavement on the adjacent public road.”

Mr. Stelmack suggested removal of the word “Any” in the last sentence, so that it should now read:

“Gravel parking lots constructed in conformance with this provision shall have a paved apron 30 feet in length commencing at the existing edge of pavement on the adjacent public road.”

The Board concurred with Mr. Stelmack's suggestion to make that one change.

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**4. Proposed Amendments to Chapter II, Section V, Minimum Standards for the Design and Construction of Streets and Ways, of the Land Use and Development Code addressing paving standards and other miscellaneous changes and clarifications to the street standards.** Discussion of proposed amendments to the Town's standards for paving and other miscellaneous changes to the requirements for the design and construction of streets and ways, referred to Planning Board for Public Hearing by the Town Council on December 4, 2007.

Mr. Stelmack suggested the following changes:

Page one, 3a): The sentence which starts “No street will be accepted until one (1) set of reproducible and (three) bound paper sets...” should be changed for consistency to read “three (3).”

Page four, Streets Offered for Acceptance, a): Add the possessive apostrophe to the word “Developers” so that it becomes “Developer's.”

Page four, Streets Offered for Acceptance, end of a) Add a colon after the word “until.”

Page five, where Item “d” was stricken, the next letter should become a new “d.” In connection with this change, Ms. Fossum noted that “(d) Median strips, esplanades, planters and other similar devices less than four hundred (400) feet in width *length* shall not be considered adequate to provide two-way access for the purpose of determining road length” has been stricken from the ordinance.

Continuing, Mr. Stelmack referred to Page 9, “*which will be evaluated by a certified lab,*” asking that it be made more specific. Mr. Burns, Director of Public Works, suggested “*which will be evaluated by a MDOT certified lab test.*” In that same section, “appropriation” should be changed to “appropriate.”

Page 11, 6e), the duplicate sentence “On straight runs, manholes or catch basins shall be places at a maximum of 300-foot intervals” should be deleted.

In the same section, Mr. Stelmack questioned the placement of the item “i) *Additional materials testing may be required per the request of the Public Works Director or the Director’s designee.*”, suggesting it might be moved down under item h). Mr. Burns said he would recommend striking the item completely. Ms. Fossum suggested striking it for now unless the item’s proper location could be identified.

At Mr. Parker’s request, Mr. Burns suggested that on Page 2, Streets Offered for Acceptance, 4b), “...at least one (1) core sample and may include more than one core sample...” the words “from the base course” be added so that the sentence will read “...at least one(1) core sample from the base course and may include more than one core sample...”

Mr. Burns also agreed that on page 1, 3a), the sentence “*Plan scale shall not be in metric scale or at 25 feet to 1 inch or similar scale...*” should be changed by the deletion of the phrase “or similar scale.”

The workshop was adjourned at 7:05 p.m. to proceed to the regular Planning Board meeting.

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The workshop resumed at 9:00 p.m. Ms. Robie referred the Board to Item, 2, Chairman’s Report, regarding the review of two proposed letters dated January 27, 2008 and addressed to the Town Council, one relating to amendments to the street ordinance and the other containing suggestions for administrative changes to other sections of the ordinances. Ms. Robie said that she believes the Board is in general accord as to the content of the first draft letter with the letter dealing with changes to Chapter II, Section V, Minimum Standards for the Design and Construction of Streets and Ways. The second letter deals with changes to Chapter I, Section III, Administration. At this point, she said the Board is invited to comment about the proposed changes.

Mr. Stelmack began the discussion by referring to the section dealing with the expiration of applications before the Planning Board. He suggested continuing the second sentence by adding the phrase “*otherwise a new application will be required*” so that the applicant will know what will be required if the 30 day deadline is not met. Ms. Robie said she believed that would make the sentence clearer. After considerable discussion, the Board amended the entire section as follows:

- 1) Applications accepted for review by the Planning Board shall be considered inactive one year from the date of the last revision *the applicant submits to the Planning office.* The applicant *thereafter* shall be notified that if no further action occurs *on the application* within three months, *the application* will be considered expired.
- 2) If an application has expired and an applicant wishes to reinstate said application, they must do so within 30 days of its expiration date by paying an expiration fee to be equal to 50% of the original application fee, *otherwise a new application shall be required.*

- 3) Any unused monies set aside in an escrow account will be returned *to the applicant* when an application *has expired and has not been reinstated within said reinstatement period.*

The Board then considered the second page of the letter dealing with administrative changes, entitled “Expiration of Approved Recorded Plans – Sunset Provision” with the following proposed text:

“Expiration of Approved Recorded Plans- Sunset Provision

1. Any plan approved by the Gorham Planning Board must be implemented within 10 years of the date of approval. (Future plans would include a plan note.)
2. Any such plan must be rescinded in the Records of Cumberland County or an affidavit filed in the Registry of Deeds of Cumberland County.
3. Any Plan approved by the Planning Board and not recorded with 30 days of endorsement is considered void.”

The Board had a long discussion about the use of the word “implemented” in the first sentence, deciding that the word “completed” would not be appropriate, and that “initiated” or “commenced” might be better, depending on the definition of those words. Issues such as financial capacity, preconstruction meetings and performance guarantees were brought up as deciding factors toward the implementation of a plan, and it was finally decided that to consult the Town Attorney about what standard other towns have used. Ms. Fossum said she would ask the Town Attorney if the plan note suggested in the first sentence could create a self-expiration.

Mr. Zelmanow made the following suggestions to the wording in this section:

1. ~~All Any~~ plans approved by the Gorham Planning Board must be ~~implemented~~ *initiated* within 10 years of the date of ~~approval~~ *recording in the Cumberland County Registry of Deeds*. (Future plans would include a plan note.)
2. Any such plan ~~must~~ *shall* be rescinded in the Records of Cumberland County *by an affidavit filed in said the Registry of Deeds of Cumberland County by the Town of Gorham at the applicant's expense.*

The Board agreed that the final sentence, “3. Any Plan approved by the Planning Board and not recorded with 30 days of endorsement is considered void” is not necessary.

The proposed language would be properly inserted in Chapter I under Planned Unit Development, Chapter II under Private Ways, Chapter III under Subdivision, and in Chapter IV under Site Plans. It was agreed that the proposed language cannot be made retroactive.

The workshop ended at 10:00 p.m.

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
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