



**bTown of Gorham
MAY 5, 2008
PLANNING BOARD MINUTES**

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

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
THOMAS FICKETT
THOMAS HUGHES
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

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

Members Absent:

**DOUGLAS BOYCE
MICHAEL PARKER**

The Chairwoman called the meeting to order at 7:09 and read the Agenda. The Clerk called the roll, noting that Douglas Boyce and Michael Parker were absent.

1. APPROVAL OF THE MINUTES FROM APRIL 7, 2008.

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to approve the minutes of April 7, 2008 as written and distributed. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [7:10 p.m.]

2. COMMITTEE REPORTS

A. Ordinance Review Committee – Ms. Robie reported that this committee has proposed several modifications to the ordinance regarding roads and streets acceptances, and some administrative changes regarding application sunset laws, which are being distributed for review as final versions. They will be sent to the Town Council.

B. Sign Ordinance Sub-Committee – Ms. Robie reported that the final version of the sign ordinance is likely to be on the July Town Council agenda.

C. Streets and Ways Sub-Committee – No report.

3. MINOR SITE PLAN REPORTS

Ms. Fossum reported that there are four minor site plans under review at the present time. Resubmissions from three applicants are still pending; they are the Guerin Property site plan, the Shaw Earthworks site plan, and the TNT Quickstop proposal for an ATM facility. The 4th project is a proposal by JARB Properties on Main Street for parking lot improvements; they have resubmitted and staff is currently preparing comments for them.

**4. WIRELESS TELECOMMUNICATIONS FACILITIES APPLICATION –
“TELECOMMUNICATIONS FACILITY” – off NASON ROAD – by MAINE RSA #1 dba US
CELLULAR.**

Request for approval to construct a 150' Wireless Telecommunications Facility off Nason Road. Zoned: Suburban Residential-Manufactured Housing; Map 96 / Lot 1.

Richard Trafton, Esquire, appeared on behalf of the applicant and introduced Chad Hebert, construction manager from Black Diamond for this project. Mr. Trafton gave an overview of the proposed application, which will serve new telecommunication areas on Route 35 and 237 and connect to Windham and Standish. He noted that the zone permits cell towers, that it is proposed to erect an 150 foot lattice style tower on a leased parcel 100 feet by 100 feet, and that the site is to be served by a 12-foot wide, 439 foot gravel access road built at the end of Nason Road to the telecommunication access road standard. The proposed telecommunications tower will be able to support U.S. Cellular's USCC has well as three additional wireless carriers. The proposal includes a one story 11-foot utility structure, 10 by 12 feet in size, located on a concrete pad. It is also anticipated there will be a 10 by 12 foot concrete pad for generator service and propane tank. In the event power to the site is interrupted, a generator needs to be brought to the site and fueled by propane. The compound will be surrounded by an 8-foot tall chain link fence secured by a locked gate, and keys will be provided to the Fire Department for access to the site in the event of emergency.

Mr. Trafton indicated that the conditions of approval are acceptable, with the exception of condition of approval #4, which permits the Town to locate equipment on the tower for public safety purposes. He said that this must be conditioned on a number of factors, such as the weight of the equipment proposed to be located on the tower and the location of such equipment so as not to interfere with other users on the site. He suggested that the condition be reworded to take into account these concerns, which Mr. Poirier indicated he would do. Mr. Trafton pointed out that in the ordinance, if a tower is used for municipal purposes, it is exempt for review under the wireless telecommunications facility ordinance, and although they do not propose to claim they are exempt if the Fire Department locates equipment on the tower, it is an issue in the ordinance which the Town might want to review.

Mr. Stelmack and Mr. Trafton discussed the compound layout plan; Mr. Trafton noting that the structure that RSA is proposing would be utilized by other users as well. Mr. Trafton said that the facility would be unmanned and the access road is not plowed, as site visits are rare, perhaps only once a month. Mr. Stelmack and Ms. Robie discussed lighting with Mr. Trafton, with the Board concurring that it would prefer to see horizontal flat lens fixtures on site, which will be added as a condition of approval. Mr. Trafton said they would accept such a condition, and any lighting condition would apply to the entire site. Ms. Robie and Mr. Trafton discussed options to camouflage the tower, with Mr. Trafton noting that the tower will be in a wooded area. Mr. Zelmanow and Mr. Trafton discussed the potential life of a tower.

Mr. Poirier gave the staff comments. He said that as a portion of the access road crosses into Standish for about 40 feet before coming back into Gorham, staff has contacted the Town of Standish Planning Department to determine if Standish requires planning review for the construction of an access road, which it does not. Mr. Poirier said that the Fire Chief's conditions of approval are #3 and 4, and #4 has been revised, per Mr. Trafton's earlier comments, as follows: "That the requirement to allow the Town to place telecommunications equipment meeting the telecommunications tower's structural requirements and the Federal Communications Commission's standards at the site shall remain available for an undetermined length of time even though the Town will not place equipment at the site at this time." Ms. Fossum said that no further revision to the Fire Chief's conditions is appropriate.

Mr. Poirier noted that certain minor changes had been requested; Mr. Trafton indicated that those changes have been completed.

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

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion to grant approval of the applicant's request to construct a 150' telecommunications tower on parcel (Map 96, Lot 1) with

conditions of approval as posted prior to the meeting, discussed with the applicant and amended here this evening and any conditions added by the Planning Board. MOTION CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [7:45 p.m.]

5. SUBDIVISION AND PRIVATE WAY AMENDMENTS – “LOCKWOOD HEIGHTS & WOLF RIVER RUN ” -- off FORT HILL ROAD -- by MICHAEL DORE dba LOCKWOOD HEIGHTS LLC.

Michael Dore, 6 Riparian Trail, Windham, applicant explained that Lockwood Heights is an 8-house subdivision off Fort Hill Road, and it is proposed to put public water approximately 700 feet down the road for all houses in the subdivision. He said that all 8 houses have voted affirmatively for public water, and the Portland Water District and the applicant’s engineer, Pinkham & Greer, have worked together to specify what materials are to be used, establish the installation process, and add an additional fire hydrant, which, with the existing hydrant on Route 114, will result in all the homes being within 300 to 400 feet of the hydrants. This will eliminate the need for sprinkler systems in the five homes remaining to be built. Mr. Dore also requested that the original Condition of Approval #13 and Plan Note 24 requiring sprinkling be eliminated from the plans.

Mr. Poirier gave the staff comments, noting that the Fire Chief has requested Condition of Approval #5 concerning the location of the fire hydrant. He said that Conditions of Approval #4 and #7 have been added to address proposed amendments to the homeowners’ documents, and Condition of Approval #6 has been added at the request of the Town Engineer to deal with certification of the road by the developer’s engineer.

Mr. Stelmack asked what the mechanism is to remove original Condition of Approval #13 and Plan Note #24 from the subdivision plan. Ms. Fossum replied that in the introductory paragraph of the Decision Document it can be clearly stated that Condition #13 and Note #24 are removed from the previously recorded Decision and Plan, with the appropriate book and page references given. Mr. Dore told Mr. Fickett that 2 homes have been constructed with sprinkler systems.

Mark Stelmack MOVED and Thomas Hughes SECONDED a motion to grant the applicant’s request for waiver for the procedures leading up to final subdivision approval under the ordinances. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [7:55 p.m.]

Mark Stelmack MOVED and Thomas Fickett SECONDED a motion to grant preliminary and final approval for Lockwood Heights 1st subdivision and private way amendments with conditions of approval as posted prior to the meeting and discussed with the applicant. grant preliminary and final approval for Lockwood Heights 1st subdivision and private way amendments with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [7:59 p.m.]

6. SUBDIVISION AND PRIVATE WAY AMENDMENTS – “WEST SKY SUBDIVISION & CHICAGO AVENUE” – off 297 NARRAGANSETT STREET – by JASON WAGNER.

Jason Wagner, applicant, 297 Narragansett Street, explained that the proposal is to shorten the approved private way to 175’ with a hammerhead turn around at the end of the private way. He said that the existing approved private way is in the wrong location and the current location has to be removed and loamed and seeded. Ms. Robie asked for confirmation that the Tier I wetlands permit is for fill on the driveway; Mr. Wagner said that the addition of a driveway from the hammerhead did impact the wetlands slightly. Mr. Wagner confirmed to Mr. Hughes that the parking space will be retained for users of the Gorham Trails.

Mr. Poirier gave the staff's comments, noting that the applicant has received the Maine DEP Tier I permit, and a plan note has been added stating that any future wetlands impacts will require Town and DEP approval. Approval also requires amendment to the road maintenance agreement, Conditions #4 and #5 have been added addressing that issue. In a memo dated May 5, 2008, the Town Engineer has requested that Plan Note #9 on the private way maintenance agreement be changed to remove the words "and certified" from the first sentence and removal of the words "Town Engineer" from the last sentence. Based on this request, Mr. Poirier said that an additional condition of approval will be required that the applicant will amend the plan per the Town Engineer's May 5, 2008 memo prior to the Board's endorsement of the final plan. Mr. Poirier noted that the applicant is requesting a waiver for the requirement of the requirements for separate Planning Board meetings for preliminary and final subdivision approval.

Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to grant the applicant's request for waiver for the procedures leading up to final subdivision approval under the ordinances. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [8:09 p.m.]

Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to grant preliminary and final approval for West Sky Subdivision 3rd subdivision amendment and 1st amendment of Chicago Avenue private way with conditions of approval as posted prior to the meeting and discussed with the applicant, and as modified this evening. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [8:10 p.m.]

7. SCHEDULE ADDITIONAL MEETINGS IF NEEDED – None needed.

8. ADJOURNMENT

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Douglas Boyce and Michael Parker absent). [8:11 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2008

**4. WIRELESS TELECOMMUNICATIONS FACILITIES APPLICATION –
“TELECOMMUNICATIONS FACILITY” – off NASON ROAD – by MAINE RSA #1 dba US
CELLULAR.**

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 is responsible for obtaining all local, state and federal permits required for the development of this project prior to commencement of any site improvements;
3. That lock boxes shall be located at the gate entrances with lock box keys provided to the Gorham Fire Department;
4. That the requirement to allow the Town to place telecommunications equipment meeting the telecommunications tower's structural requirements and the Federal Communications Commission's standards at the site shall remain available for an undetermined length of time even though the Town will not place equipment at the site at this time;
5. That the applicant will amend the plans per the Town of Gorham's Review Memo dated May 1, 2008 prior to the Planning Board's endorsement of the final plan;
6. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Cumberland County Soil and Water Conservation District, Department of Environmental Protection, dated March, latest edition;
7. That the applicant shall provide property line information, including the easement areas, and site information in auto-cad format to the Assistant Town Planner prior the to pre-construction meeting;
8. That all site improvements shall be completed as shown on the approved plans prior to any request for an occupancy permit or a performance guarantee covering the remaining site improvements shall be established through the Planning Department;
9. That prior to the commencement of any site improvements and/or earth-moving activities associated with the approved application, the applicant shall arrange a pre-construction meeting through the Planning Office with the selected review Engineer, Public Works Director, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
10. That the owner of the wireless telecommunications facility and his or her successors and assigns agree:
 - To respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - To negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

- To allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location; and
 - To require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility;
11. That the surety bond format and amount shall be reviewed and approved by the Town Attorney and Town Staff;
 12. That upon request, the applicant shall certify continued compliance with all applicable FCC radio frequency emissions regulations, and
 13. That the 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 the issuance of any building permits or the commencement of any improvements on the site.
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5. SUBDIVISION AND PRIVATE WAY AMENDMENTS – “LOCKWOOD HEIGHTS & WOLF RIVER RUN ” -- off FORT HILL ROAD -- by MICHAEL DORE dba LOCKWOOD HEIGHTS LLC.

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 is responsible for obtaining all local, state and federal permits required for the development of this subdivision and private way;
3. That the private way shall be maintained for emergency vehicles year-round;
4. That the applicant shall make all required changes to the homeowners documents meeting the requirements of the Town Attorney and Town Staff prior to the Planning Board's endorsement of the final approved plans;
5. That the location of the fire hydrant shall be determined and approved by the Fire Chief at the time of installation;

6. That the applicant shall submit a certification signed by the applicant's professional engineer stating the improvements have been constructed as specified in the plans approved by the Planning Board and that the "as built" drawings are accurate;
 7. That the approved amended homeowners' documents shall be recorded within sixty (60) days of approval;
 8. That the Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way;
 9. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange a pre-construction meeting through the Planning Office with the selected review Engineer, Public Works Director, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
 10. That all other applicable conditions of approval and plan notes attached to the original subdivision and private way plans shall remain fully in effect; and
 11. That the conditions of approval, subdivision, and private way plans shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plans, and dated copies of the recorded Decision Document.
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6. SUBDIVISION AND PRIVATE WAY AMENDMENTS – “WEST SKY SUBDIVISION & CHICAGO AVENUE” – off 297 NARRAGANSETT STREET – by JASON WAGNER.

**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 is responsible for obtaining all local, state and federal permits required for the development of this subdivision and private way;
3. That the private way shall be maintained for emergency vehicles year-round;
4. That the applicant shall submit a revised private way maintenance agreement for review and approval of the Town Staff and Town Attorney prior to Planning Board's endorsement of the final approved plans;
5. That the approved amended private way maintenance agreement shall be recorded within sixty (60) days of approval;
6. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange a pre-construction meeting through the Planning Office with the selected review Engineer, Public Works Director, Code Enforcement Officer

and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;

7. That all other applicable conditions of approval and plan notes attached to the original subdivision and private way plans shall remain fully in effect;
8. That the applicant will amend the plan per the Town Engineer's May 5, 2008 memo prior to the Planning Board's endorsement of the final plan; and
9. That the conditions of approval, subdivision, and private way plans shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plans, and dated copies of the recorded Decision Document.