



Town of Gorham
PLANNING BOARD WORKSHOP NOTES
June 2, 2008

A workshop meeting of the Gorham Planning Board was held on Monday, June 2, 2008, at 6:30 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.

The Chairwoman announced that the workshop would be in two separate sessions: the first one is to consider the first five items on the agenda, and the remaining two items will be taken up in workshop session following the regular Planning Board meeting.

1. Review and Approval of the May 5, 2008 Workshop Meeting Notes.

There were no comments or corrections to the May 5, 2008 Workshop Meeting Notes.

2. Chairman's Report.

In response to a query from Mr. Hughes, Ms. Robie replied that two abutters requested that the Gordon Sand and Gravel property be checked for vernal pools. Ms. Fossum indicated that it is anticipated that the proposed expansion will be heard on the Board's July agenda.

3. Proposed Amendments to the Land Use and Development Code Chapter II, General Standards of Performance, Section I(H) Noise Abatement, and Chapter IV, Site Plan Review, IX, adding a new paragraph T., Noise Abatement.

Ms. Robie explained that the proposed draft, which was prepared by Charles Wallace of Resource Systems Engineering in conjunction with meetings with the Town Council Ordinance Committee, has been referred to the Planning Board for public hearing. Ms. Robie said it is important that the Board concur with the zoning districts that are included in each of the two classifications for noise limits.

Ms. Fossum gave an overview of the proposed amendments, saying there will be two changes to the ordinance. Ordinarily these are performance-based standards and are found in Chapter II in the Performance Standards of the ordinance; however, the Council's Ordinance Committee has been very clear about wanting to put the revisions into Chapter IV. There is an amendment proposed for Chapter II, Section I (H), Noise Abatement, which will be a new number 3, which will state that developments subject to Chapter II are required to meet Chapter IV, Site Plan Review. In Chapter IV, the criteria will apply to all site plans, both major and minor, and will apply only to new applications. It was agreed that the Board will have to have the American National Standards Institute's acoustical terminology standards mentioned in the first paragraph of the draft ordinance. Ms. Fossum said that the phrase "protected location" needs to be identified in the ordinance. She said there is a method for sound measurement and there is a list of activities that are excluded from having to meet the sound level limits. There are very clear standards of what must be submitted to either the Planning Board or to the Site Plan Review Committee. Ms. Fossum also noted that there is a provision that the Planning Board may require demonstration that a proposed development meets the applicable sound level limits, as well as an outline of how that demonstration can be met.

Ms. Robie noted that there are basically two district classifications of permitted noise levels: the first, called Residential, includes Urban, Suburban, Rural, Village Center and Office Residential, has a daytime limit of 60 dBA and a nighttime level limit of 50 dBA. The second district, the Industrial/Commercial, includes the Urban Commercial, Roadside Commercial, Industrial, Commercial/Office and Narragansett

Development districts, and has a daytime limit of 70 dBA and 60 dBA nighttime limit. The Board discussed at length the definition given that “The district is determined by the zoning at the lot line. Where a lot line also defines a zoning boundary, the most restrictive sound level limit of the two abutting zones shall apply,” with a consensus that the definition is unclear. Mr. Zelmanow suggested changing the language to read “The district classification of a lot is determined by that lot’s zoning classification. Where two lots of differing district classifications abut, the most restrictive residential sound level limit shall apply.”

The Board discussed the language dealing with short duration repetitive sounds, noting that this is unclear as well, with the key being the observed level. The Board agreed to recommend the following language: “This total of measurement and 5 dBA shall not exceed the maximum sound level limit (dBA) permitted in the district per table 1.”

Mr. Stelmack pointed out some minor corrections: on page 3, line 3, replace the word “only” with “shall be for the specific noise, ...;” last paragraph on page 3, line 3, insert the word “to” between “measurement” and “include.” Mr. Stelmack pointed out that in Chapter II, new item 3, there is a period missing between the words “Abatement” and “Where.”

In order to trigger site plan review of a new use, Ms. Robie suggested, and the Board concurred, that on page 182, Chapter IV, Site Plan, a new item “g” be added as follows:

“g. The new non-residential use will generate noise levels greater than those permitted in the underlying zoning district.”

As a result of a comment from Mr. Parker, the Board agreed that with respect to Chapter II, Section I.H, 1 and 2, the 75 decibel measurement be changed to be consistent with the new ordinance language, that is “A-weighted equivalent sound level” as defined by applicable American National Standards Institute (ANSI). Any measurement of noise in any section of the Code should be “A-weighted equivalent sound level.”

Additionally, the Board concurred that the list entitled “The following activities are excluded from the sound level limits under this section.” should be moved to Section 2, H, since this list refers to many activities that are not subject to site plan review.

Ms. Robie suggested that Mr. Wallace should be asked to provide the Board with a clearer statement of “short duration repetitive sounds.”

Workshop Adjourned in Order to Proceed to Regular Planning Board Meeting

Following the conclusion of the regular Planning Board meeting, the workshop reconvened at 9:25 p.m.

The first issue to be discussed was the question of a second sitewalk for C&C Family, the Board concurring that no useful purpose would be served by another sitewalk.

4. Pre-Application Conference #2: Libby Avenue Subdivision, 222 Libby Avenue – by Risbara Bros.

Discussion on a request to develop a 49-lot residential subdivision per the Development Transfer Overlay District standards. Zoned Urban Residential/Suburban Residential, Map 30/L13.

Matt O'Brien, Northeast Civil Solutions, appeared on behalf of the applicant. Mr. O'Brien noted that this is now a 40-lot subdivision, located in the Urban Residential and Suburban Residential Districts. He explained that the project is being proposed under the Development Transfer Overlay District standards. Under the requirements of this District, 10% of the open space must be set aside, with 5% of the total area as usable open space. Mr. O'Brien said that the initial design called for a loop road with multiple entrances onto Libby Avenue along with a second interior subdivision road; however, after meeting with staff and third party reviews, an alternative layout has been prepared. The redesign calls for a single entrance from Libby Avenue, extra wide driveways with garages to allow for four automobiles to be parked on each lot, and a boardwalk to access open space located across a wetland. Mr. O'Brien indicated that the access from the development to Timber Ridge Road in the Gateway Commons Subdivision has been upgraded to a subcollector road, with a reduction in the esplanade between the pavement and the sidewalks to 8 feet. Mr. O'Brien said the requirement of the District is for trees every 50 feet along the right of way, and that, along with the double wide driveways, transformers, and the mailboxes, would not be possible. He said that the requirement for a 40% longer than wider lot area would mean some lots would extend into the wetlands, and said that with their proposal the boundaries of the lots would be the wetlands, and the lots would be the correct size, but they would not have the required length-to-width ratio.

Ms. Robie commented that this is the first application to come before the Board using the Development Transfer Overlay District standards, and as this is a recently enacted ordinance, its intent is quite clear and the people who developed it are still available for consultation. She recommended that Mark Eyerman, who wrote the Transfer Overlay District ordinance language, review the application and comment on how well, in his view, it meets the intent of the ordinance. She suggested that the applicant also check out the two subdivisions in Portland which were used as models in writing the Transfer Overlay District ordinance.

Mr. Poirier noted that the applicant has not yet submitted an actual plan, and that staff recommended that they come before the Board before shifting their design and investing time and money. He said that some of staff's concerns about the first design included the radius of the road, the wetland impacts on the northern part of the original loop road, stormwater management issues, parking, and open space.

Ms. Robie commented that this second submission is closer to meeting the intent of the Transfer Overlay District requirements as it creates more of a neighborhood with the single road. She said there is not enough detail for her to ascertain if it meets some of the other requirements, noting as an example what was listed as a 25-foot setback is actually a build-to line as the houses are supposed to be built to the 25 foot mark. She said that the proposed double wide driveways would mean that half of the 75-foot wide property would be macadam with a double car garage in the front of the house, which she doesn't believe meets the standard of the district. She said that on-street parking with a reduced esplanade is more in line with what was envisioned with this neighborhood concept, not large expanses and rows of double wide driveways. She said she believes that street trees are essential. Ms. Robie said she would like Mr. Eyerman to review the proposed open space to determine if it is in keeping with the intent of the ordinance.

Mr. Parker agreed with Ms. Robie, and said that cutting back the esplanade to a shoulder would still allow enough space for planting the required trees. He said he believes that parking per house is not as important as parking for the neighborhood.

Mr. Zelmanow commented on the configuration of the open space and the odd shape of some of the lots.

Ms. Robie commented that traffic issues are certain to be discussed at any public hearing that the Board holds. Rocco Risbara, applicant, said he would be happy to talk to Mr. Eyerman, as well as to discuss

their road concept with the Public Works Director. Ms. Robie said she would like to see Mr. Eyerman's critique of the project.

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

5. Pre-Application Conference: Barstow Highlands, off Barstow Road – by Westbrook Housing
Discussion on proposed amendments to the Barstow Highlands Subdivision approval granted August 15, 2005, and the transfer of ownership to Westbrook Housing for the creation of workforce and/or senior housing. Zoned Suburban Residential-Manufactured Housing Sub district; Map 87/L21, 22, 23.

Guy Gagnon, Development Director for Westbrook Development Corporation, a non profit housing development corporation, explained that his organization is affiliated with Westbrook Housing but is in most ways a separate entity. Mr. Gagnon said they are trying to branch out from where they have done most of their development, in Westbrook, and they are before the Board to see if Gorham is a community that wants to have affordable housing developed by his group.

Mr. Gagnon said that they do not actually own the property and would like to make a decision about its purchase fairly soon. He said they are concentrating on affordable senior housing for 55+. Mr. Gagnon said they do not plan to alter the basic footprint of the approved plan; however, they would like to break up the four-plexes into duplexes, and construct smaller homes, single story of approximately 1200 square feet, to keep them affordable. It was their intention to keep the same forty units.

Mr. Gagnon asked the Board if it would be willing to waive 90% of the school impact fee, based on the fact that their goal is to provide senior 55+ housing. Ms. Fossum said that the ordinance is very clear, that if occupancy is restricted to residents that are least 55 years of age, there are binding legal restrictions, consistent with the Federal Fair Housing provision, that this project would be exempt from the Middle School facilities impact fee.

Mr. Gagnon indicated that a critical issue would be the specifics of the required road improvements attached to the original plan, their anticipated cost, and asked if alternatives could be presented to any of the requirements. Mr. Poirier explained that prior to phase 2 of the original application, the applicant was given the time to work with DOT to improve the sight distance of the intersection; but there were no specifics given, just that the applicant would go to DOT to design improvements to the sight distances. Ms. Fossum said that the traffic/road improvements were driven by the condition of the road, as well as the anticipated traffic, and suggested that elderly housing probably has a marginally smaller anticipated number of daily trips per unit. Ms. Robie suggested that the applicant discuss with the Public Works Director what would currently be required. Mr. Gagnon asked if the Board would establish a dollar limit on the necessary contribution to the road improvements work; Ms. Robie said that the Public Works Director suggests what infrastructure requirements are necessary and also recommends a dollar figure.

Ms. Robie said that without the submission of a new application, the provisions of the buffer attached to the original application have been violated and must be dealt with. In response to a query from Mr. Parker, Ms. Robie indicated that Westbrook Housing is trying to avoid a resubmission, based on costs. Ms. Fossum said that if this applicant were to purchase the property and the approved plans and build exactly what was approved and follow all the conditions of approval placed on the original project, the only thing to come back before the Board for would be the change in ownership and a demonstration of technical and financial capacity. Ms. Fossum said that the Board could consider an alternative plan for the buffer, a viable alternative to the loss of the buffer.

PUBLIC COMMENT PERIOD OPENED:

Newbern Miner, 19 Bear Run Drive, abutter. Expressed concern about the further deterioration of Barstow Road since the last approval, Barstow Road was never upgraded and the \$80,000 to have been contributed by the developer is insufficient now as there is no Town budget to add it to. Asked for a definition of “work force” housing as expressed by Westbrook Housing as listed in the agenda item description, does that mean low income housing rentals, such as Section 8 housing, to be administered by some outside firm, as opposed to ownership of the condos. Expressed concern about the buffer. Must be a resubmission by any other applicant.

George Skillin, 157 Barstow Road. Said he had checked with Westbrook police to determine how many police and fire emergency calls they have answered to Westbrook Housing Authority units. Expressed concern that the Town of Gorham would have to deal with expenses incurred in this way.

Betty Dyer, 136 Barstow Road. Cannot mandate how the land is going to be used, unless someone owns the land, one can only hope that what can be accommodated will be pleasant. Believes that this project would be the one assigned to carry the weight of the cost of improving Barstow Road. Change cannot be stopped.

PUBLIC COMMENT PERIOD ENDED.

Mr. Gagnon explained that their preference is for senior housing, but defined “work force” as teachers, policemen, and firemen. He said all the units will be for sale. He said the proposed buyers of these condos will be 55 and over, and said he does not anticipate similar police and/or other emergency calls as would be the case for the frail and elderly housing, the statistics quoted by Mr. Skillin.

Ms. Robie said that if the applicant is proposing to buy the property and build it as approved, then an alternative plan must be submitted to the buffer that was cut. If something different is proposed, then it must come before the Board. Ms. Robie told Mr. Gagnon that the Board must abide by the ordinance and has no way of knowing what the neighbors would accept.

6. Other Business.

The Board concurred that no additional site walk for Plan-It Recycling is necessary.

The workshop was adjourned at 11:00 p.m.

Respectfully submitted,

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