



**Town of Gorham
October 20, 2008
PLANNING BOARD MINUTES**

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

JOINT MEETING OF GORHAM AND BUXTON PLANNING BOARDS

Gorham Members Present:

**SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

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

Buxton Members Present:

**JEREMIAH ROSS, VICE CHAIRMAN
DAVID ANDERSON
JAMES LOGAN
KEITH EMERY
DAVID SAVAGE**

Buxton Members Absent:

**HARRY KAVOUKSORIAN, CHAIRMAN
EMILY WALSH**

Susan Robie, Gorham Chairwoman, called the meeting to order at 7:00 and read the one item Agenda. The Clerk called the roll, noting that all Gorham Planning Board members were present. Buxton Planning Board members introduced themselves, and Jeremiah Ross, Buxton Vice Chairman, noted that Buxton Board members Harry Kavouksorian, Chairman, and Emily Walsh were absent.

1. CALL TO ORDER

Ms. Robie explained that since the application to be discussed is subject to separate land use ordinances and two separate processes, the meeting would begin with a description of the subdivision approval process from each jurisdiction, with Ms. Fossum, Gorham's Director of Planning and Zoning, making the presentation of Gorham's procedure.

Ms. Fossum gave an overview of Gorham's subdivision application review procedure, noting that Gorham has a full time professional Planning Department review staff that oversees applications of all kinds. She said that under Gorham's ordinances, there is a pre-application conference scheduled with an applicant, a site walk is scheduled, and after that preliminary input, the applicant prepares the formal submission and provides it to the Town. Once that submission is made, the Planning staff reviews the plans for completeness, and the plans are then transmitted from the Planning Department to Town staff and to the Town's outside consulting engineer for review. Town staff review includes the Fire Chief, Code Enforcement Officer, Public Works Director, Police Chief, Recreation Director, Tax Assessor and the Planners. Review comments from the inhouse review and the outside consultants are combined in a single memo which is provided to the applicant's engineer, with a copy provided as well to the applicant. The applicant's engineer will then revise the plans and resubmit, with the submission going through the process a second time to inhouse reviewers so they can verify that the information they were looking for has been provided or their questions have been answered. Usually the plan is substantially complete and ready to go before the Planning Board.

Ms. Fossum said that this particular application has been undergoing the process since last May, when the formal submission was made, with the applicant submitting his preliminary subdivision plan at that time. There has been the review, resubmission, and review again, and the applicant is now before the Board.

She said there is a process for a formal preliminary plan approval by the Gorham Planning Board, after which the applicant will submit its DEP application as the design and engineering are largely completed at this stage. Once DEP approval has been secured, the applicant returns to the Gorham Planning Board for final approval.

Ms. Fossum noted that the Buxton Board has been provided with the Planning Staff's Plan Review Memo or Agenda Memo, in which the issues and items for discussion are outlined. In addition, during a meeting the Planning Board members will raise other issues and items that are of concern to them.

Ms. Fossum said that Gorham's ordinances do not require that a public hearing be held on a subdivision application, but a subdivision application is treated as a public hearing when members of the public are present as comments are asked for.

She said that a preliminary plan might require two or three meetings with the Board, as it usually is a process of discussion with the applicant then revising or resubmitting additional information. A typical subdivision could take three to five meetings to go through the process.

Jeremiah Ross explained the Buxton application process, saying there is a preliminary plan review with the applicant presenting the plan and the Board asking questions. Generally the Board's comments are answered at a second meeting. When the Board has determined that the applicant has provided sufficient information, there is a vote to set a public hearing. At that public hearing, abutters' comments are heard, as well as comments from the general public and Code Enforcement Officer. The Board will then vote on conditions of approval.

Mr. Ross said that an application such as the one under discussion this evening will be sent out to Southern Maine Regional Planning for review, and then at the public hearing the Board will address the reviewer's comments with the applicant. If there are any outstanding issues, such as DEP review, letters from the Fire Chief or Public Works Director, they are generally incorporated as conditions of approval.

Ms. Robie said that initially the two Boards voted to hold all meetings jointly, and asked Board members about the advisability of continuing to do that in light of the different review processes, with the Gorham Planning Board only reviewing the 22-lot portion of the project in Gorham, and the Buxton Board reviewing the 7-lot Buxton portion. She noted joint issues such as roads, emergency and fire services, and liability, which she said could be handled in a single meeting before the application comes back for final approval. Ms. Robie also said that the Town Attorney has advised that there is no legal reason to hold joint meetings. Mr. Ross said that earlier it had been agreed that each jurisdiction can make it a condition of approval that the other jurisdiction's requirements are satisfied, and each jurisdiction has completely different specific lot requirements. Mr. Ross said there are five Buxton Board members who have not seen the site yet, so a site walk must be scheduled; Ms. Robie commented that Gorham's Board has had two site walks. Mr. Hughes indicated he would favor the two Boards meeting separately until such time as a need arises to meet to discuss common issues.

Natalie Burns, Town Attorney, said that what has been discussed is allowed under the statute, and if the Boards decide at the end of this meeting they would like to split their review and not hold all or some of their future meetings jointly, that would require a vote of each individual Board. She said technically something should be done in writing, but if such a vote is memorialized in the minutes, that would suffice for purposes of the statute. She said that if the Boards want one additional joint meeting, they could certainly do so, or

change their minds in the future. However, if a decision is made at the end of this meeting not to hold future joint meetings, a vote is necessary.

Mr. Parker suggested that there should be a joint meeting when final approval is being considered. Ms. Robie said that all agreements between public works departments and police and rescue have to be finalized in advance before final approval is granted.

Stephen Joffe, applicant, came to the podium and expressed concern that there might be different requirements at the end of the process that don't fit. Ms. Robie said that there should be a better sense of what will happen with the review process by the end of tonight's meeting.

2. PRELIMINARY SUBDIVISION PLAN

Preliminary Subdivision Application: Blueberry Ridge – by Blueberry Fields, a/k/a Joffe/Colpitts

Request for preliminary plan approval of a proposed 29 lot residential subdivision on 50.17 acres with 22 lots in Gorham off Finn Parker Road in the Rural zone: Map 54/L4; and 7 lots in Buxton off Webster and Church Hill Roads in the Residential zone: Map 7/Lots 30 and 31.

Les Berry, BH2M Engineers, reviewed the plan as a whole. He said that Mr. Joffe and Julie Colpitts, co-applicants, own a 76-acre parcel of land, with about 50 acres in Gorham and 26 acres in Buxton. He said that a cluster subdivision plan would create 22 lots on the Gorham side and 7 lots on the Buxton side. He noted that the project is fairly complex project because of wetland issues, stream crossing, stormwater management, which create quite a few DEP issues. He said that there has been a preliminary meeting with DEP and Inland Fisheries and Wildlife is the primary agency that has concerns with the site. Mr. Berry said that from the Towns' perspectives, there are certain overlapping issues such as the roadway and stormwater. He said a detention pond has been designed to serve on the Buxton side, but on the Gorham side there is no place for a detention pond, so several vegetated swale filters and buffers have been designed, but all discharge is through the stream that works its way through Gorham.

Mr. Berry said that the roadway system is unique as it is in Buxton but serves lots both in Buxton and Gorham, which could pose problems with snow plowing in that Gorham would have to drive into Buxton or there would have to be some joint public works agreement such as alternate plowing responsibilities.

Mr. Berry said that a sitewalk would be set up for the Buxton members who have not seen the site and said he believes that the plans are ready to be reviewed by Southern Maine Regional Planning. He indicated that they have been working with Gorham.

Mr. Fickett and Mr. Berry discussed the speed limit and site distance on Church Hill Road, with Mr. Berry to provide the requested information. In response to a query from Mr. Ross, Mr. Berry said the houses in Gorham must be sprinkled so the houses in Buxton would be sprinkled as well. Mr. Stelmack asked Mr. Berry to equate the grade of "Roadway A" with a known intersection in Gorham. Mr. Hughes asked if the length of the dead end road has been resolved.

Mr. Poirier gave the staff comments, noting that the site distance on Church Hill Road is given as 365 feet, and the applicant is recommending clearing brush 100 feet back on both sides of the exit on to Church Hill Road to help with site distance. He said that other items for the Board to note include that the application falls under Chapter II, Section IV, Clustered Residential Development, with a requirement that "The net residential density of the site shall remain the same as if the site were developed as a conventional subdivision." Mr. Poirier said that staff has looked at the net residential density calculations requirements, referring to deduction #2, which states "Areas that are, because of existing land uses, natural features, or lack of access, isolated and unavailable for building purposes or for use in common with the remainder of the parcel, as determined by the Town Planner, whose determination is subject to Planning Board review in the

event of a dispute.” He pointed to two pockets of land on the site which staff feels meet the definition of “isolated land” from the rest of the parcel due to significant slopes and wetland conditions, and should be deducted from the net residential density calculations. Mr. Poirier said that there a right of way extension from Daisy Lane on the northern property line exiting out on to Wood Road, the applicant has provided right of way continuation to the Reynolds property, and the Board should discuss with the applicant the feasibility of connecting the right of way to Daisy Lane right of way. Mr. Poirier noted that comments have been received from gravel pit operators using Webster Road asking that the developer notify potential buyers that Webster Road is heavily used by dump trucks to mitigate any future problems. He said that an abutter wants a plan note to identify that there is an adjacent parcel being used as a runway by that abutter.

Mr. Parker asked for confirmation that the gravel pit operators are not abutters to the property under discussion, and if they are not, asked the Town Attorney what the precedent is for requiring a plan note about the existence of a gravel pit in the neighborhood or gravel trucks using the road. Ms. Burns said she does not know of a precedent for that particular plan note, there is nothing that precludes adding such a plan note, and it is within the Board’s discretion to add such a note.

Mr. Parker confirmed with Mr. Poirier that the isolated pockets of land would reduce the number of lots from 22.049 lots, the number of lots to be lost as yet to be determined. The Board concurred with staff’s assessment of the isolated pockets; however, Mr. Berry and Mr. Joffe disagreed with the characterization of these pockets of land as “isolated.” Ms. Robie commented that it is not how easily the “isolated” land can be walked to, it is how easily it is developed, given the constraints of steep slopes and wetlands. Mr. Berry told Mr. Anderson that the concerns of Inland Fisheries and Wildlife involve a 100-foot setback from the stream on site and keeping the fishways open. He said that IFW wants the roadways to cross perpendicular to the stream to minimize any impact.

Ms. Robie noted that the Board has not yet determined that the applicant’s plan meets the requirement for a clustered subdivision. Mr. Poirier replied to Mr. Parker that the conventional plan showed 18 lots, not the 22 now under consideration, with the isolated land developed. Ms. Robie said the clustered plan may not show more lots than the conventional subdivision plan; that in order to secure clustered subdivision plan approval a conventional subdivision plan and a clustered plan must be submitted, with the same number of lots. Mr. Berry confirmed that a clustered subdivision is also being proposed in Buxton.

Ms. Robie confirmed with Mr. Berry that a conventional plan will be submitted, with the wetlands delineated, which will determine how many lots can be obtained. Mr. Berry asked if the Board would come out to look at the “isolated” land. Mr. Parker said he has no desire to return to the site until a conventional layout has been provided. Mr. Hughes said he would have no problem returning to the site. Mr. Fickett said he would have no problem. Mr. Boyce indicated he does not feel he needs to look at the site. Mr. Stelmack has no objection, but would like to see the conventional layout first; Mr. Zelmanow and Ms. Robie concurred with Mr. Parker and Mr. Stelmack. Mr. Berry asked the Board to hold its decision about the “isolated” land until a complete conventional plan has been submitted, which could make the “isolated” land issue moot.

Ms. Robie said that connecting the right of way issue needs to be addressed. Mr. Berry said they would prefer not to extend the right of way to Daisy Lane. Ms. Robie said the right of way could be put between two lots, would not have to go through a wetland or over any steep slopes. Mr. Berry confirmed that it would not be impossible to provide the right of way as Ms. Robie suggested.

Mr. Hughes raised the issue of roadway width, saying that 20 feet is inadequate, that he would prefer 22 feet with curbing on one side only. Mr. Berry said the only curbing occurs at the stream crossings. Mr. Berry replied to a question from Mr. Stelmack that even though this is described as a neighborhood, there are no sidewalks proposed because the roads are proposed to be open ditch roads and it would be difficult to put sidewalks in. Mr. Berry said it is a rural location and there is no place to go; Mr. Stelmack suggested that interconnection with other neighborhoods is desirable. Mr. Joffe said there are no neighborhoods in that area

that have any sidewalks. Mr. Logan noted that a wider roadway would be safer if there are to be no sidewalks; Buxton would have a 20 foot paved road with 2-foot shoulders on each side. Ms. Robie said that there should be trails designated on the plans as part of a cluster development.

Mr. Ross confirmed that the open space will be held in common by all the homeowners in the development with covenants regulating the use of that space. He confirmed that a Gorham homeowner would also have deeded access to open space in Buxton and vice versa.

Mr. Poirier said that concern about the 20-foot paved road section has been brought to the attention of the Public Works Director. He said the narrow road section and curbs is due to IFW's requirements for minimal disturbance to the stream, instead of the 4-foot shoulders that the rest of the road would receive. Mr. Burns has reviewed that and given his OK, and if the Board would like, the input of the Fire Chief could also be secured about the 20-foot section, paved curb to curb. Mr. Berry pointed out on the plan the stretch which would be curbed, saying that it is not directly in front of any proposed house lot so that parking would not be an issue. He said that IFW wants that section narrower, and if the Town wants it wider, it must mandate that. Mr. Emery commented that a snow plow would chew up that section rather substantially so no parking signs should be posted. Ms. Robie suggested granite curbing and no mailboxes. Mr. Berry confirmed that it is intended that the road be accepted as a public road; Mr. Ross said that the portion of the private road in Buxton will always be a private road. Mr. Stelmack confirmed that the road width is an issue for the Public Works Directors to address; Mr. Berry replied that they will verify what the Public Works Directors want and will talk to IFW to see if there is some mutually agreeable compromise. Ms. Robie suggested that IFW be asked to agree to provide safe areas for people to walk in that particular stretch of roadway.

Mr. Anderson said that numerous studies have shown that sidewalks are a very positive approach to subdivisions, clusters, and entire neighborhoods, and said sidewalks would be very desirable in this development, especially where there are interconnecting clusters. He said, however, there is nothing in the Buxton ordinance which presently requires sidewalks. Mr. Parker commented that with the proposed 29 new homes it will not resemble a rural area, and the Board would like to see some innovative design to go along with the request for smaller lot sizes under the cluster subdivision provisions. Mr. Parker said that the neighborhood is going to change, and the Board would like to see some of the amenities which make that a better neighborhood. Mr. Berry said they will work on enhancing the cluster aspects to justify the cluster approval.

Mr. Boyce said he wanted to be certain that the applicant receives proper direction on the question of net residential density and the conventional subdivision layout issue. He said he finds it distasteful and embarrassing that the Board is looking at a cluster subdivision plan that shows 22 lots in Gorham when there is an old conventional layout plan that shows 18 lots. He said he understands that the old plan is dated and was put together prior to specific knowledge of wetlands, topography and the like; nevertheless, it is unfortunate that there has been a certain amount of time, effort, peer review and expense to the applicant to get this far with the correct number of lots just being determined at this stage. Mr. Boyce said that the Code specifically states that it is the net residential density that governs the computation of the number of lots, and the applicant must be given a clear understanding of what is required of him as to the number of lots. He said that the Board has interpreted the Code to mean that if the conventional development can only allow the configuring of 18 lots having adequate frontage and dimensional criteria, then by the Code that number cannot be exceeded in a cluster subdivision plan.

Ms. Robie quoted from the Code that "The net residential density of the site shall remain the same as if the site were developed as a conventional subdivision." She asked if staff sees any alternative in order to determine the number of lots.

Ms. Fossum replied that there is no alternative, the process is that the applicant will calculate the net residential density, and lay out a conventional subdivision in order to demonstrate that that certain number of

lots can be achieved on a subdivision plan. She said that there have been clustered subdivisions in the past where the number of lots that could be laid out exceeded the net residential density number, but they were limited to the number under the net residential density calculations. She said that there have also been subdivisions where only a smaller number of lots could be laid out than the net residential density calculated, and they were limited to that smaller number. Ms. Fossum said that events in the past have now resulted in the developer having to submit a revised conventional plan.

Mr. Berry said he would get something back to the Board in the near future. It was agreed that before making a decision on the "isolated" land, the Board would like to see that revised plan.

Mr. Logan commented about the location of wells and septic systems on small lots and the well exclusion zones on the lots. He recommended noting these well exclusion zones on the plans. Mr. Emery suggested putting a hammerhead in at the end of the road on the plans. Ms. Robie said that if any of the lots include 20% slopes, Gorham requires that a grading plan be provided. Mr. Berry confirmed that the slope calculations are done by computer.

PUBLIC COMMENT PERIOD OPENED:

Larry Oliva, 310 Church Hill Road, spoke in favor of the project and said in his opinion sidewalks are not needed in the area and would be of no value. He indicated that the roadway entrance is best positioned where it is. Mr. Oliva suggested that the comments from gravel pit owners in the area are retribution for the applicants' objection to a gravel pit application in the past.

PUBLIC COMMENT PERIOD ENDED.

The Board returned to a discussion of requiring plan notes on the presence of aggregate industries in the area, Mr. Ross noting that there are four gravel pits within a half mile of the proposed subdivision. After considerable discussion, a majority of the Boards concurred that such a plan note is not necessary as none of these operations are immediate abutters to the project. The only exception will be a plan note about the airstrip which is an immediate abutter.

Mr. Emery asked Mr. Berry to show the ten foot drainage easement on the plans. Mr. Parker asked Mr. Berry if the drainage infrastructure will be deeded to the towns; Mr. Berry said the Town doesn't want the structures, it wants at least a public right of way with the homeowners' association having the responsibility.

Ms. Robie asked if all future meetings need to be joint. Mr. Logan replied that it would make sense to check in regularly and perhaps have one more joint meeting in the middle of the process and one more toward the end. He said that Buxton's issues are simpler than Gorham's and Buxton's board will have a level of comfort derived from the work done by Gorham's Planning staff. Mr. Hughes said he would like one more meeting to look at a revised conventional plan and then see where a joint meeting would take the application. Mr. Ross commented that the Buxton Board meets twice a month. Ms. Robie said that this item would probably not be on the agenda for November and is more likely to be on the December meeting. Mr. Ross said that by then the Buxton Board would have had at least 3 meetings and could be ready to meet with the Gorham Board. Mr. Logan said that issues shared by the two towns are fire and rescue, school bus access and public works.

Ms. Robie said that the DEP permitting process will cover all the stormwater issues, and Gorham's process is not to grant final approval until the Board has had a chance to read the permits. Mr. Ross said that Buxton's process includes a condition of approval that DEP approves the permit as stated. Mr. Logan suggested that the DEP permitting level could be Tier III, which will present a different time frame, as it is characterized as a wetland of special significance. Mr. Logan suggested that this information should be presented at the next meeting.

Mr. Logan said that Buxton has no requirement that a conventional plan is necessary and that a change in analysis yielding a different number on the Gorham side will not affect the Buxton side, but that is not to say they would not be willing to attend a joint meeting when a conventional plan is presented to Gorham. Ms. Robie suggested that an appropriate time to have the next joint meeting is when there are proposed agreements between the two towns' public works directors, fire and rescue, and on school bus issues. If those agreements are not in place by the December meeting, Gorham's Board will have a separate meeting to deal with the conventional subdivision plan and cluster issues.

Michael Parker MOVED and Douglas Boyce SECONDED a motion that joint meetings will occur as needed rather than every time, the necessity to be determined each time the Boards meet. Motion CARRIED, 7 ayes. [9:16 p.m.]

Keith Emery MOVED and James Logan SECONDED a motion that joint meetings will occur when deemed appropriate by both Boards. Motion CARRIED, 5 ayes (Mr. Kavouksorian and Ms. Walsh absent). [9:18 p.m.]

3. Douglas Boyce MOVED and Michael Parker SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [9:20 p.m.]

Respectfully submitted,

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