



**Town of Gorham
December 15, 2008
PLANNING BOARD MINUTES**

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

Members Present:

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

Staff Present:

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

Members Absent:

DOUGLAS BOYCE, VICE CHAIRMAN

The Chairwoman called the meeting to order at 7:05 p.m. and read the one-item Agenda. The Clerk called the roll, noting that Douglas Boyce was absent. Ms. Robie explained that Mr. Boyce was not present because, as an employee of Hannaford Brothers, abutter to the project, he has recused himself from participation in the Board's deliberations on the item.

Mr. Parker said that although he was not present at the last meeting when this item was first discussed, he has reviewed the tape and packets from that meeting and for this meeting and asked that he be permitted to participate in the review of the application this evening.

Thomas Fickett MOVED and Thomas Hughes SECONDED a motion to permit Mr. Parker to participate in the discussion of this item. Motion CARRIED, 5 ayes (Michael Parker abstaining and Douglas Boyce absent). [7:07 p.m.]

1. APPROVAL OF THE DECEMBER 1, 2008 MINUTES

Thomas Fickett MOVED and Edward Zelmanow SECONDED a motion to postpone the acceptance of the minutes of December 1, 2008, to the January 2009 regular meeting. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:05]

Mr. Stelmack noted a typographic error to be corrected on page 7 of 8 of the partial draft December 1, 2008 minutes.

2. PUBLIC HEARING

MAJOR SITE PLAN – BY JED ASSETS, LLC (aka David Douin) – 8 ELM STREET

A request for approval of a proposed commercial office development at 8 Elm Street. Zoned Urban Commercial, Map 102/Lot 161.

David Douin came to the podium and said he believes that they have addressed all of the concerns expressed at the last Planning Board meeting. He commented on highlights which include lining up the front building with other buildings on Elm Street, moving the driveway to the property line, going from 2 parking spaces to 4, and, pending agreement from Hannaford, adding three trees.

Ms. Fossum gave the staff comments, saying that the applicant was last before the Board on December 1, 2008, and that he is seeking approval of a proposed commercial office at 8 Elm Street, which will involve three units in the principal building with a proposal for a storage unit to be located at the front of the lot on Elm Street. At the last meeting the applicant requested and was granted a parking waiver to reduce the

number of on-site parking spaces from 9 to 6 spaces and received approval to allow the 6 feet behind the building fronting on Elm Street to be used for parking. She said that staff met with the applicant and his engineer on December 4 to review a number of outstanding items; the engineer resubmitted revised plans on December 8 which were reviewed by department heads, and those comments were subsequently provided to the engineer. The engineer again resubmitted revised plans today, which show the following changes: three maple trees to be planted on the Hannaford lot to replace the trees removed by the applicant; the entrance drive has been shifted off the Hannaford lot and reduced in size from 13 feet to 12 feet; the applicant has revised the front parking area to 4 parking spaces, added a 4 foot concrete walkway with granite curb between the building and the front parking spaces, added two additional utility pole-mounted lights to the front parking area, added a 3 foot high picket fence along the westerly property line with Hannaford, and added a 6-foot stockade fence with the southerly residential abutter. She said she believes that the applicant has addressed the comments in staff's memo of last week.

Ms. Fossum said that still remaining for discussion are the following items: the first is that the front wall of the storage building needs to be designed to meet the requirements of the Urban Commercial Village Standards to provide a certain amount of window and door space. The Board has been provided this evening with copies of proposed building façade designs. Secondly, the Board needs to consider the proposed 5 foot wide bituminous side walk with esplanade and granite curb along Elm Street for the entire frontage of the applicant's lot; this sidewalk plan, if approved, would establish a precedent for the type of sidewalk construction along that side of Elm Street. Other streets have been required to have concrete sidewalks. The type of sidewalk would need to be approved by the Public Works Director, and because the sidewalk would be an offsite improvement, the applicant would be required to post a performance guarantee equal to 150% of the cost of the improvement in order to assure that the improvement would be made when the timing is appropriate. She said that Condition of Approval #6 has been crafted to deal with this issue. Thirdly, Condition of Approval #4 has been drafted to deal with minor plan changes as outlined in the Planning Review Memo dated December 12, 2008. Finally, Ms. Fossum discussed the replacement of the line trees between this applicant and Hannaford Brothers' property, saying that Hannaford was required by a previous Planning Board to protect the existing trees along the property line during construction and to maintain them as part of the landscaping. She said that the applicant believed he had the right to take those trees down because they were line trees; however there must now be a replacement in kind by the applicant of those trees. The plans that have been submitted refer to three maple trees to be planted with Hannaford's approval; however, as the applicant has mentioned, he does not yet have agreement from Hannaford to that proposal. Therefore, Ms. Fossum suggested that a condition of approval should be added to the effect that the applicant will replace the property line trees which he removed without permission within 180 days of approval. She said that if the applicant cannot get Hannaford's approval, it is an absolute requirement that something be done, and she expects that both this applicant and Hannaford would be back before the Board.

Ms. Robie asked Ms. Fossum if the issue of the emergency exit has been settled. Mr. Poirier replied that he believes that it is settled so long as the applicant labels the door as "not an exit" and said that the Code requires something like a dead bolt on both sides, so that the only way the door can be opened is with a key to the dead bolt. Mr. Poirier affirmed that it is not an emergency exit, it is just a door. Ms. Fossum said that if there were ever an opportunity for the applicant to negotiate an easement with Hannaford, that door could be used for egress but it would need to have a walkway and be maintained throughout the year. Mr. Parker asked for confirmation that there is no need for an emergency exit for a 3-unit office building. Ms. Fossum replied that the square footage of the building and the use of sprinklers mean that the applicant is not required to have a second egress.

Ms. Robie summarized the remaining issues to be discussed by the Board: the design of the sidewalk, the façade design of the storage building, the trees, lighting, signage. Mr. Poirier commented that the new plans show a variety of fencing along the various boundaries, and said that the applicant has added Plan Note 17 at the request of staff that says "Fences indicated on the eastern and northern property lines may be removed with the approval of the adjoining abutter and the Town of Gorham Planner. The fence line along the

southern property line may be removed in the future with the approval of the adjoining abutter and the Town of Gorham Planner should a commercial use ever be established on the adjoining lot in conformance with provisions of the Gorham Land Use and Development Code.”

Ms. Fossum answered a question from Mr. Stelmack about whether a type of sidewalk is specified in the Code for this District by saying that it refers back to the Gorham Village Main Street Master Plan approved in about 1999, which attempted to create a standard throughout the Village to achieve some kind of consistency in the type of sidewalks being put in. She said that with the Hannaford project, the Board at that time established the concrete sidewalk with granite curbing. She said that since that time, sidewalks have been made according to that standard for Norway Savings, Carter’s Automotive, and Gorham Savings Bank. After considerable discussion, the Board concurred with a recommendation by Mr. Parker that the sidewalk to be installed in front of this project be consistent with the sidewalk already in place in front of Carter’s Automotive which does not have an esplanade and is concrete with granite curbing. The applicant indicated agreement with the Board’s decision.

PUBLIC COMMENT PERIOD OPENED: None offered.
PUBLIC COMMENT PERIOD ENDED. [7:32 p.m.]

Mr. Hughes confirmed with the applicant that the materials used to construct the storage building at the front of the lot will be identical to those of the building that has already been built. The Board discussed with Mr. Harmon, the applicant’s engineer, and the applicant the various features of the two elevation options presented to the Board for its review. Mr. Zelmanow read from the standard from the Code that the storage building elevation needs to include a representation of a door; Mr. Douin suggested that the archway illustrated does suggest a door. Ms. Fossum said that the standard does apply throughout the Village area, and not just buildings on Main Street, as questioned by Mr. Stelmack. Ms. Robie said she believes that the archway and bench depicted could be construed to meet the standard; Mr. Hughes agreed. Mr. Parker said he is happy with the way it is designed, and ultimately the Board concurred that option #1 is the better design and that it conforms to the design standards of the Code. Ms. Robie suggested that the proposed shrubbery in front of the archway be modified so that someone could use the bench and said that the Board could draft a condition of approval that the applicant could remove some of the shrubs for the purpose of enabling pedestrian use of the bench. In addition, she asked that a couple of street trees be added to augment a street canopy, also to be a condition of approval. The Board concurred with both proposed conditions.

A point raised by Mr. Parker involved whether a dumpster would be provided; the applicant replied that instead of a dumpster, individual trash receptacles would be placed in each of the two storage units to be used by the three tenants of the office building, with the trash removed on a regular basis. The applicant pointed out to Mr. Parker an area where snow would be stored but said that snow removal would need to be done on a regular basis due to the physical constraints of the site. Mr. Parker suggested that if Hannaford is taking back its 5 foot right of way, it should be removed from the mylar.

Mr. Stelmack discussed with Mr. Harmon how the grading slope of the ramp has been revised to meet ADA requirements as discussed by the Town’s peer review engineer.

The Board then discussed at length the proposed lighting plan and whether or not it meets the lighting performance standards of the Code, particularly whether the lights are full cutoff. Mr. Poirier confirmed Mr. Stelmack’s statement that the light poles do not meet the requirement for the 90 degree cutoff, and the wallpacks proposed also do not meet the 45 degree cutoff. He said that the lighting plan does meet the requirement of b) under Lighting in the Code, that “The illumination of parking lots shall provide for a uniformity ratio of not more than 4:1 ...” and c) that “The maximum illumination within parking lots shall be not more than 6.0 footcandles measured at the ground surface;” d) does not apply to this parcel; g) is met; height poles for the four lights are 15 feet so they are within the 20 foot limitation; the applicant is not proposed to light any awnings; the light poles will be white; no exterior string lighting is proposed; no

lighting is proposed to outline the building or building features; and the applicant has submitted a photometric point by point analysis. Mr. Poirier said it is difficult to balance Village character lighting and adequately shielded lighting, but perhaps the applicant can provide shielded wallpacks. Mr. Stelmack said the Village character of the lights is attractive but he is a proponent of having the same type of lights in the Hannaford lot, which are shoe box cutoffs. Mr. Poirier read the Board the performance standard that states "Period or historical fixtures that do not meet these requirements may be used as an alternative to conventional lighting provided that if the fixtures are not cutoff fixtures the maximum initial lumens generated by each fixture shall not exceed 2,000 for incandescent lamps and 8,500 for metal halide lamps if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors and the mounting height shall not exceed fifteen (15) feet above the adjacent ground." Mr. Harmon said that the lighting expert has described the fixtures as full cutoff.

Ms. Fossum said that staff would be happy to confer with the applicant's lighting consultant to verify that the fixtures proposed meet the requirements of the Code. Ms. Robie said that if the Board wants full cutoff or the equivalent thereof, it should be a condition of approval and let the applicant and Planning staff come to an agreement when that is met. The Board concurred unanimously that there should be such a condition of approval.

Mr. Zelmanow suggested that condition of approval #17, "That the trash dumpster shall be placed at least 10 feet from the building or be protected by a sprinkler head," be amended to read "That the trash dumpster, *if any*, shall be placed..."

Ms. Robie said that the Village standards require the building to be at the front line setback, lined up with other buildings on the street, and this proposal is an attempt to make the site work. She said that she wants to stress that this is not a precedent, that the site plan requirement for buildings to have their main building at the build line under the Village standards is not altered by the Board's approving this after-the-fact application.

Mr. Stelmack MOVED and Thomas Hughes SECONDED a motion that the applicant has met the requirements of Chapter IV, Site Plan Review, Section IX, Approval Criteria and Standards, of the Land Use and Development Code.

Discussion: Ms. Fossum pointed out that Staff's Site Plan Review Report, dated December 12, 2008, mirrors the requirements in Section IX.

Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:24 p.m.]

At the request of the Chair, Mr. Zelmanow read the Performance Standards contained in Chapter II, Section X, Urban Commercial District, Subsection E, of the Land Use Code, for the Board to indicate whether the members agree, by a show of hands, that the applicant has met the following standards.

1. Access to the Site

In addition to being safe and convenient, vehicular access into the site shall be designed to minimize traffic delays on the streets providing access to the site...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

2. Egress from the Site

Vehicular egress from the site shall be designed to minimize the impact on Main Street traffic and the degradation of the character of the village...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

3. Vehicular Circulation Between Parking Lots

Provisions shall be made for the interconnection of non-residential parking lots...

Does not apply.

4. Parking Locations

Parking shall be designed to reinforce the “village character” No off-street parking shall be located within any required front, side or rear yard...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

5. Reduction in Off-Street Parking:

The amount of off-street parking required by Chapter II, Section II may be reduced for uses in this district in accordance with the provisions of that section.

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has at least one off-site parking space and has adequately satisfied this requirement.

6. Relationship of the Building to the Street

Buildings shall be located on the lot in a manner that reinforces the “village character.” Where an established village scale setback relationship exists, a new building shall maintain...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

7. Pedestrian Relationships and Facilities

Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

8. Motor Vehicle Facilities and Services

The locations and designs of facilities for motor vehicles including driveways...

Does not apply.

9. Street Facades

All buildings shall be designed so that the front wall of the building and any wall facing Main Street that is not a front wall have the visual appearance of a front façade...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

10. Signs

In addition to the requirements of Chapter II, Section III, all signs shall maintain the “village character. be of a pedestrian scale, and shall be located to be visually compatible...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

11. Roof Lines

Roofs shall be designed to maintain the “village character.” All new buildings and additions shall have pitched or gabled roofs to the extent...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

12. Building Materials

Buildings shall be compatible with the “village character.” The exterior surface of all facades that are visible from a public street shall use traditional New England materials...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

13. Lighting

Exterior lighting shall be compatible with the “village character.” Exterior lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety and comfort...

By a show of hands of 6 Board members, (Douglas Boyce absent), the Board agreed that the applicant has adequately satisfied this requirement.

At the request of Ms. Robie, Natalie Burns, Town Attorney, read the new conditions of approval as follows:

19. That the applicant may eliminate up to two of the shrubs shown on the site plan and located on the Elm Street façade of the storage facility structure to allow pedestrian access to the bench at the front of the structure
20. That the applicant shall work with the Town Planner to revise the lighting plan as may be necessary to comply with the requirements of Chapter I, Section 10, E 13) of the Land Use and Development Code
21. That the applicant shall add two street trees along the Elm Street frontage of the property
22. That the plan shall be modified to reflect the change in the sidewalk agreed to at the Planning Board’s December 15, 2008, meeting, which will be a concrete sidewalk with granite curbing but no esplanade

Mr. Douin said he was in agreement with the conditions of approval as modified this evening.

Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to grant JED Assets, LLC’s request for approval to construct a 3 unit commercial office building with associated building and site improvements, zoned Urban Commercial, Map 102, Lot 161, with conditions of approval as posted prior to the meeting, modified by the Planning Board this evening, and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:35 p.m.]

3. ADJOURNMENT

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:39 p.m.]

Respectfully submitted,

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

2. MAJOR SITE PLAN – BY JED ASSETS, LLC (aka David Douin) – 8 ELM STREET

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;
3. That all construction and site alterations shall be done in accordance with the “Maine Erosion and Sediment Control Handbook: Best Management Practices,” Department of Environmental Protection, latest edition;
4. That the applicant shall address the required changes to the plan as outlined in the Planning Review Memo dated December 12, 2008 prior to the Planning Board’s endorsement of the final plan;
5. That prior to the commencement of any site improvements and/or earth-moving activities, representatives of the applicant and site contractor, shall arrange for a pre-construction meeting with staff members to review the proposed commencement date of the project, the overall schedule of improvements, conditions of approval, and site plan requirements;
6. That prior to the pre-construction meeting the applicant shall establish a performance guarantee equaling 150% of the construction costs of the proposed improvements in the Elm Street ROW meeting the approvals of the Public Works Director and Town Planner;
7. That the applicant shall submit the approved site plans in Autocad format to the Assistant Planner prior to the scheduling of the pre-construction meeting;
8. That the site improvements shall be completed as shown on the approval plans prior to request for either temporary or final occupancy permits for the building; or a performance guarantee, covering the remaining site improvements shall be established through the Planning Department;
9. That the building shall be completely sprinkled, with the sprinkler meeting all applicable sections of the Town of Gorham’s Sprinkler Ordinance;
10. That the sprinkler plans shall be approved by the State Fire Marshal’s Office and Gorham Fire Department;
11. That the sprinkler controls shall be placed in a room with a separate outside door that shall be marked sprinkler control room;
12. That the building shall meet all applicable sections of the 101 Life Safety Code;
13. That natural gas meter shall be protected by bollards;

14. That the building construction plans and floor plans shall be sent to the State Fire Marshal's Office for review and permitting;
15. That the sprinkler test papers must be provided before a certificate of occupancy is issued;
16. That Portable Fire Extinguishers shall be placed throughout the building as required by NFPA 101 Life Safety Code;
17. That the trash dumpster, if any, shall be placed at least 10 feet from the building or be protected by a sprinkler head;
18. That a complete set of the final approved plan set will be delivered to planning office one week prior to the pre-construction meeting to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Director of Planning;
19. That the applicant may eliminate up to two of the shrubs shown on the site plan and located on the Elm Street side of the storage facility structure to allow pedestrian access to the bench at the front of the structure;
20. That the applicant shall work with the Town Planner to revise the lighting plan as may be necessary to comply with the requirements of Chapter I, Section X. E.13 of the Land Use and Development Code;
21. That the applicant shall add two street trees along the Elm Street frontage of the property;
22. That the plan shall be modified to reflect the change in the sidewalk agreed to at the Planning Board's December 15, 2008, meeting, which will be a concrete sidewalk with granite curbing but no esplanade; and
23. 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 commencement of any improvements on the site.