



Town of Gorham
August 10, 2009
PLANNING BOARD MINUTES

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

Members Present:

SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE, Vice Chairman
THOMAS FICKETT
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW

Staff Present:

DEBORAH FOSSUM, Dir. of Planning & Zoning
BARBARA SKINNER, Clerk of the Board

Members Absent:

THOMAS HUGHES

Staff Absent:

THOMAS POIRIER, Assistant Planner

The Chairwoman called the meeting to order at 7:08p.m. and read the agenda. The Clerk called the roll, noting that Mr. Hughes was absent.

1. APPROVAL OF THE JULY 20, 2009 MINUTES

Michael Parker **MOVED** and Douglas Boyce **SECONDED** a motion to approve the minutes of July 20, 2009, as written and distributed. Motion **CARRIED**, 6 ayes (Thomas Hughes absent). [7:10 p.m.]

2. COMMITTEE REPORTS

- A. Ordinance Review Committee** – Ms. Robie reported that this Committee met and discussed the proposed language dealing with Access to Adjoining Land, and the proposed language exempting pump station lots location within subdivisions and small parcels for amenities within development transfer subdivisions from having to meet minimum lot size requirements. The proposed amendment on Access to Adjoining Land is scheduled for public hearing this evening as Item 4.
- B. Sign Ordinance Sub-Committee** – No meeting.
- C. Streets and Ways Sub-Committee** - No meeting.
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3. ADMINISTRATIVE REVIEW REPORT

Ms. Fossum reported that there are two active Administrative Review projects under way now: one is the Sappi/Mallison Falls recreation project, on which staff has been awaiting resubmission since March; and the other is the Life Church parking lot reconfiguration, on which staff is awaiting response to comments.

4. PUBLIC HEARING – PROPOSED AMENDMENTS TO THE GORHAM LAND USE AND DEVELOPMENT CODE, CHAPTER II, GENERAL STANDARDS OF PERFORMANCE, SECTION V, MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS, C. ACCESS TO ADJOINING LAND

Proposed amendments to the Gorham Land Use and Development Code, Chapter II, General Standards of Performance, Section V, Minimum Standards for the Design and Construction of Streets and Ways, C. Access to Adjoining Land.

Edward Zelmanow **MOVED** and Douglas Boyce **SECONDED** a motion to move Item 4 to the end of the Agenda, following Item 7. Motion **CARRIED**, 6 ayes (Thomas Hughes absent). [7:11 p.m.]

5. SPECIAL EXCEPTION – “CHILDHOOD ADVENTURES” – DAYCARE AT 381 MAIN STREET – BY CHILDHOOD ADVENTURES.

Request for special exception approval to locate a day care center at 381 Main Street, located at the intersection of Libby Avenue and Main Street. Zoned Office Residential; Map 109/Lot 10.

Kelley Burghardt, owner of Childhood Adventures, explained that she intends to move her day care from 652 to 381 Main Street. A playground is proposed and will be 1700 square feet, with a chain link fence.

Ms. Fossum gave the staff comments, noting that the applicant is requesting special exception approval to locate a daycare in the existing 381 Main Street commercial building; the day care will serve up to 49 children at any one time. The location requires review under the Special Exception Use standards, which is why the application is before the Board this evening. The applicant is proposing a playground with a chain link fence covered with colored plastic and located to the front of the building. The day care facility will be accessed from Libby Avenue. There are three other uses located in the building, with two parking lots. The larger parking lot, which will be used by the day care clientele, has the capacity for 36 parking spaces, and the day care peak usage is estimated at 20 at any one time. Ms. Fossum noted that the sprinkler ordinance requires the building to be sprinkled because there will be four tenants in the building, and the building owners have agreed to sprinkle the building, with the Fire Chief giving the owners one year to come into compliance. Ms. Burghardt commented that it is her understanding that the contract has already been signed. Ms. Fossum said that during the sitewalk it was noted that there is a business sign in the right of way of Libby Avenue, which the owners have agreed to relocate.

Ms. Fossum noted that the Board must make findings on the 6 Special Exception Criteria, which may be done either separately or as a group. She noted that Condition of Approval #2 contains a typographic error and should be reworded to read: “That prior to occupancy of the building, the applicant is responsible for obtaining all required local, state and federal permits.” She also recommended that another Condition of Approval, #4, be added, stating “That the owners of 381 Main Street will remove the business sign currently located in the Libby Avenue right of way,” that present Condition of Approval #4 will be renumbered as Condition of Approval #5, and that Condition of Approval 3c) should be reworded to read “That the owners of the buildings will sign an agreement ...”

Mr. Parker told Mr. Zelmanow that the playground is located a good distance away from the intersection of Main Street and Libby Avenue and is in a safe location.

Mark Stelmack MOVED and Douglas Boyce SECONDED a motion that the applicant has met the Special Exception Criteria.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:17 p.m.]

Mark Stelmack MOVED and Michael Parker SECONDED a motion that the Special Exception Report becomes the basis of the Board’s findings of fact. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:18 p.m.]

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant Childhood Adventures’ request for approval of the special exception use to permit the location of a day care center facility at 381 Main Street with conditions of approval as posted prior to the meeting, modified during the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:20 p.m.]

6. SUBDIVISION/PRIVATE WAY -“WILDLIFE DRIVE”/“WILDLIFE DRIVE ” – BY RICHARD PEDNAULT

Request for final approval of a 5-lot subdivision and 750’ private way (“Wildlife Drive”) located off 129 Ossipee Trail. Zoned Rural; Map 60 / Lots 1 and 1.003.

Les Berry, BH2M Engineers, appeared on behalf of the applicant, and said that the legal documents were to have been taken care of. Ms. Fossum said that the best course of action is to retain Condition of Approval #5 as written, to which Mr. Berry agreed. Mr. Berry said that the connection to adjoining land will remain as originally shown on the plan.

Ms. Fossum gave the staff comments, and said that the applicant, Richard Pednault, is requesting final plan approval for a proposed 5-lot residential subdivision on 13.05 acres off of State Route 25 in Gorham’s Rural District. The subdivision lots will be served by a private way, underground utilities, and on-site septic and private wells. The applicant is proposing to sprinkle the buildings on lots 3, 4, and 5, meeting Gorham’s Sprinkler Ordinance. She noted, as Mr. Berry said, that the applicant will show the ROW continuation where it was previously shown on the plans.

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant final plan approval of Richard Pednault’s request for final plan approval of the proposed “Wildlife Subdivision and Wildlife Drive,” a 5-lot subdivision and private way on 13.05 acres off Ossipee Trail. Zoned Rural, Map 60 / Lots 1 and 1.003, with conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:25 p.m.]

7. SUBDIVISION/SITE PLAN - WINSLOW ROAD SUBDIVISION – OFF WINSLOW ROAD NEAR ROUTE 237 -- BY STJ, INC.

Request for preliminary approval for a 6-lot subdivision and road on 12.35 acres off Winslow Road near Route 237. Zoned Rural; Map 70 / Lot 22.

Shawn Frank, Sebago Technics, appeared on behalf of the applicant and explained that the hammerhead design of the road has been retained and extended a fifty foot right of way to the Stevens property. There will be a piece of land conveyed to an abutter in return for a small portion of some 4800 square feet in order to square off lot 3. Mr. Frank reminded the Board that the initial intent was to bring public water from 237 to the proposed development, but a meeting with the Public Water District has revealed that this property would actually be higher than the PWD tank facility in Westbrook on Rocky Hill, so chances are in the summer months there would not be adequate pressure within the subdivision. As a result, individual wells are now being proposed to service the development, and the required nitrate analysis will be performed by Gillespie & Associates for the 6 subsurface sewage disposal systems.

Mr. Stelmack confirmed with Mr. Frank that the houses will now need to be sprinkled as there will be no public water.

Ms. Fossum gave the staff comments, noting that the applicant is requesting approval of a six lot subdivision on a 12.35 acre parcel. The parcel includes an unreclaimed gravel pit which the applicant indicates they will reclaim as part of the development of the subdivision, and for that reason those gravel areas are not deducted from the net residential density calculations of the subdivision because they will become usable land. The parcel is located in the Rural District and the subdivision lots will be served by underground utilities, subsurface disposal systems, and wells. She said that as Mr. Frank has indicated, the original intent was to extend the water up Winslow Road from the intersection of Winslow Road and Route 237; however, they

have found out that they are not able to do that. That eliminates the issue about the possible reconstruction of Winslow Road, on which there is currently a moratorium.

During the Board's site walk on August 5 there was discussion about the reclamation of the former gravel pit, there was a request from a neighbor for screening, with the applicant expressing a willingness to discuss that.

Ms. Fossum said that the applicant submitted revised plans on Friday, August 7, 2009, which have not been reviewed as yet by staff, but which it is believed respond to staff comments and the Plan Review Memo which went out earlier. She said that the remaining issues to be resolved or reviewed can be taken care of between preliminary approval and final submission.

Mr. Frank said that he would have something put together for the next time the application is before the Board about reconfiguring the road and the proposed right of way to adjoining land, but based on discussions with the applicant this is what is being proposed now. Mr. Parker made suggestions to Mr. Frank about possible reconfiguration of the road and the hammerhead. Mr. Frank reiterated that he would be happy to look at a revised layout.

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

Mark Stelmack MOVED and Michael Parker SECONDED a motion to grant STJ's request for preliminary plan approval of the proposed "Winslow Road Subdivision", a 6-lot residential subdivision on 12.35 +/- acres off Winslow Road. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:35 p.m.]

4. PUBLIC HEARING – PROPOSED AMENDMENTS TO THE GORHAM LAND USE AND DEVELOPMENT CODE, CHAPTER II, GENERAL STANDARDS OF PERFORMANCE, SECTION V, MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS, C. ACCESS TO ADJOINING LAND

Proposed amendments to the Gorham Land Use and Development Code, Chapter II, General Standards of Performance, Section V, Minimum Standards for the Design and Construction of Streets and Ways, C. Access to Adjoining Land.

The Board resumed its discussion, begun during the course of its workshop meeting prior to the regular meeting, on the proposed Alternative B, which follows below.

ALTERNATIVE B

**PROPOSED AMENDMENT TO
GORHAM LAND USE CODE**

BE IT ORDAINED by the Town Council of the Town of Gorham, Maine, in Town Council assembled, that Chapter II, General Standards of Performance, Section V. Minimum Standards for the Design and Construction of Streets and Ways, C. Access to Adjoining Land, of the Gorham Land Use and Development Code be amended as follows:

(Note: Additions are underlined and deletions are ~~struck-out~~.)

SECTION V-MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS¹

A. PURPOSE

The purpose of this section is to set uniform standards for the design of streets and ways in the Town of Gorham in order to provide for safe vehicular and pedestrian travel and appropriate service to adjacent land.

B. GENERAL

No street or way shall be laid out and accepted as a public street or way by the Town of Gorham, Maine except in accordance with the provisions of this Section of the Land Use and Development Code.

C. ACCESS TO ADJOINING LAND

The Planning Board shall provide for road continuation to limit unnecessary curb cuts and/or to provide for street access to ~~undeveloped~~ adjoining ~~property~~ properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent ~~property~~ properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land ~~and~~ or (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for continuation. Access to adjacent developed land shall be provided by the dedication on a subdivision plan of a 50-foot right-of-way connecting to previously dedicated rights-of-way.

Road connections to adjacent developed land are to be fully constructed at the time of development in subdivisions that are located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts unless the Planning Board determines that fully constructing the road connection is not in the public interest because (1) the road connection will create an unsafe situation for residents of the subdivision or existing neighborhoods due to a substantial increase in traffic volume or speed, or (2) the road connection will result in motor vehicles using the connection as a cut-through to avoid either waits at nearby signalized intersections or the use of neighboring arterial or connector streets.

In a subdivision that has proposed private ways as well as streets that are proposed to be dedicated to the Town for acceptance, the future road connection right of way shall be established from streets proposed to be dedicated to the Town for acceptance.

In subdivisions where only private ways are proposed, the requirement the dedication of a right of way is not required. In the event that a street approved as a private way in the subdivision is later presented to the Town for acceptance as a public street, the road connection right of way must be dedicated to the Town for acceptance at the same time as the street and if the subdivision is located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts, the road connection must be fully constructed prior to street acceptance.

A road connection right of way may not be established in open space in a cluster development unless no other option is available. If a road connection right of way must pass

1. Amended October 7, 1997

through designated open space the design must minimize the impact on the open space area and must be subtracted from the open space acreage for purposes of calculation of open space requirements.

After in-depth discussion, the Board ultimately agreed on the following changes to Alternative B:

C. ACCESS TO ADJOINING LAND

- 1) The Planning Board shall provide for road continuation to limit unnecessary curb cuts and/or to provide for street access to undeveloped adjoining property properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent property properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land and or (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for continuation. Access to adjacent developed land shall be provided by the dedication on a subdivision plan of a 50-foot right-of-way connecting to previously dedicated rights-of-way.
- 2) Road connections to adjacent developed land are to be fully constructed at the time of development in subdivisions that are located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts unless the Planning Board determines that fully constructing the road connection is not in the public interest because (1) the road connection will create an unsafe situation for residents of the subdivision or existing neighborhoods due to a substantial increase in traffic volume or speed, or (2) the road connection will result in motor vehicles using the connection as a cut-through to avoid either waits at nearby signalized intersections or the use of neighboring arterial or connector streets.
- 3) In a subdivision that has proposed private ways as well as public streets that are proposed to be dedicated to the Town for acceptance, the future road connection rights of way shall be established from said public streets proposed to be dedicated to the Town for acceptance.
- 4) In subdivisions where only private ways are proposed, the subdivision plan needs to comply with paragraph C1) but not paragraph C2) above. In the event that a street approved as a private way in the subdivision is later presented to the Town for acceptance as a public street, the road connection right of way must be included in a deed to the Town for acceptance at the same time as the street and if the subdivision is located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts, the road connection must be fully constructed prior to street acceptance.

PUBLIC COMMENT PERIOD OPENED: Mark Curtis, 35 Wood Road, expressed appreciation for the flexibility being recommended by the Board, as the proposed language could pose difficulties for developers. Ms. Robie noted that the Town encourages high density and interconnectivity in certain areas of the Town such as the Development Transfer Overly District, Urban Residential District and the Village Centers Districts.

PUBLIC COMMENT PERIOD ENDED.

Michael Parker MOVED and Douglas Boyce SECONDED a motion to recommend adoption of the proposed amendments to Chapter II, General Standards of Performance, Section V. Minimum Standards for the Design and Construction of Streets and Ways, C. Access to Adjoining Land, of the Gorham Land Use and Development Code as amended this evening during the Board's

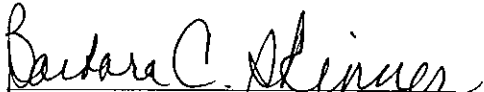
workshop and the regular Board meeting. Motion CARRIED, 6 ayes (Thomas Hughes absent).
[8:05 p.m.]

8. SCHEDULE NEXT MEETING – AUGUST 24, 2009

9. ADJOURNMENT

Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to adjourn. Motion
CARRIED, 6 ayes (Thomas Hughes absent). [8:06 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board
August 10, 2009

5. **SPECIAL EXCEPTION** – “CHILDHOOD ADVENTURES” – DAYCARE AT 381 MAIN STREET – BY CHILDHOOD ADVENTURES.

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 minor changes which the Director of Planning may approve;
2. That prior to the occupancy of the building, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall meet the Fire Chief’s requirements as outlined in a memo dated 07/17/2009 from Robert Lefebvre, Fire Chief to Debbie Fossum, Town Planner:
 - a. The building shall meet all applicable sections of the NFPA 101 Life Safety Code.
 - b. The building shall pass the licensing inspection for Daycare Centers before a certificate of occupancy is issued.
 - c. That the owners of the building will sign an agreement that will be drawn up by the Town attorney giving the owners one year to install the sprinkler system throughout the entire building. At the end of the one year if the system has not been installed then the building will have to return to a three unit building.
 - d. The sprinkler system shall meet the Town of Gorham’s Sprinkler Ordinance.
4. That the owners of 381 Main Street will remove the business sign currently located in the Libby Avenue right of way; and
5. That the conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of an occupancy permit.

6. SUBDIVISION/PRIVATE WAY -“WILDLIFE DRIVE”/“WILDLIFE DRIVE ” – BY RICHARD PEDNAULT

**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 minor changes which the Director of Planning may approve;
2. That prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits;
3. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated within the approved private way, the applicant and the design engineer shall arrange pre-construction meeting with the Planning Department, Public Works Director, Fire Chief, Code Enforcement Officer, Planning Director, and the Town’s Inspecting Engineer to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
4. That at least one week prior to the date of the pre-construction meeting, a complete set of the final approved plan set will be delivered to each of the following: (1) Code Office, (2) Public Works Director, (3) Compliance Coordinator, and (4) Director of Planning;
5. That the applicant shall submit revised legal documents for final review and approval by Town Staff prior to the Planning Board’s endorsement of the final plan;
6. That prior to the commencement of construction, the applicant will establish a performance guarantee with the Planning Department to cover the cost of constructing the paved apron;
7. That the applicant shall be responsible for the cost and installation of all required street signs to be placed in locations approved by the Fire Chief and Police Chief;
8. That the private way shall be properly maintained for access of emergency vehicles year round;
9. That each individual home shall be sprinkled meeting all applicable sections of the Town of Gorham’s Sprinkler Ordinance, the sprinkler plans shall be submitted to the State Fire Marshal’s Office and the Gorham Fire Department for review and permitting, and the sprinkler plans shall be submitted to the Gorham Fire Department at least two weeks prior to the start of the installation of the system;
10. That prior to the issuance of the first occupancy permit the applicant’s engineer shall certify that the private way has been constructed in accordance with the specifications of the Town of Gorham’s Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board. Furthermore the applicant’s engineer will be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
11. 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, latest edition;

12. 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;
13. That the applicant's engineer shall certify that the streets or ways have been constructed in accordance with the specifications of the Town of Gorham's Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board by providing stamped record drawings accurately reflecting these improvements as required by the Code;
14. The applicant shall create a homeowners association or other legal entity acceptable to the Town and shall submit the association documents or declaration creating the association or other legal entity in a form acceptable to the Town Attorney. The documents or declaration shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of all streets within the subdivision, and shall state that the homeowners association and/or the lot owners shall be responsible for all costs related to the street. The applicant shall be responsible for recording the approved documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board; and
15. That the subdivision plan, private way plan, and decision document shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board; and that a receipt from the Cumberland County Registry of Deeds showing the date, and book and page number of the recorded plans and copies of the recorded decision document shall be returned to the Town Planner.