



**Town of Gorham  
October 5, 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  
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**

The Chairwoman called the meeting to order at 7:05p.m. and read the agenda. The Clerk called the roll, noting that all members were present.

**1. APPROVAL OF THE AUGUST 24, 2009 MINUTES**

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to approve the minutes of August 24, 2009, as written and distributed. Motion CARRIED, 6 ayes (Edward Zelmanow abstaining as not having been present at the meeting). [7:06 p.m.]**

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**2. COMMITTEE REPORTS**

Ms. Robie reported that none of the Board's committees have had meetings since the Board's last meeting in August.

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**3. ADMINISTRATIVE REVIEW REPORT**

Ms. Fossum reported that there was one approval of an Administrative Review project, that of Life Church's request for parking lot improvements. The Sappi proposal for the Mallison Street recreation area, submitted some time ago, is on hold while Sappi seeks a FERC amendment to their approval for the recreation facility

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**4. SUBDIVISION AMENDMENT/PRIVATE WAY – “FAIRFIELD WOODS” /  
“COPPERHEAD ROAD” – BY CHRIS DUCHAINE**

Request for final approval of a proposed amendment to Lot 2 of the Fairfield Estates Subdivision Plan to create 3 new lots and approval of a 1,328 foot private way (Copperhead Road). Zoned: Rural, Suburban Residential, Shoreland Zoning; Map 79 / Lot 3.202.

Shawn Frank, Sebago Technics, appeared on behalf of the applicant and gave an overview of the project. Mr. Frank said that the major change to the plans since the Board granted preliminary approval on July 20, 2009, involves a fire pond design for fire protection, and said that approval has been received from the Fire Chief and the Public Works Director on the pond design. Mr. Frank said a meeting with staff last week has resulted in revised association documents for legal review. He said that the DEP permit for the project has been received today and forwarded to staff, with copies being provided to the Board this evening.

Ms. Fossum gave a staff summary, saying that the applicant proposes to subdivide Lot 2 in the existing Fairfield Woods Subdivision to create three new building lots and to upgrade and extend an existing driveway to create a 1,302 foot long gravel private way serving four lots. The private way will be named

Copperhead Road. The area under review entails 19.48 acres of land off Buck Street, located on Map 79, Lot 3.202, and is situated in the Rural, Suburban Residential and Shoreland Overlay Zoning Districts. The lots will be served by underground utilities, individual septic systems and private wells, with fire protection provided by a fire pond instead of individual residential sprinklers. The buildable portions of each of the proposed new building lots are limited by the 100-year flood plain, shoreland zoning requirements, natural resource setbacks, and zoning setbacks. The project requires review under both the private way and subdivision criteria of the ordinance. A copy of the DEP permit was received mid-afternoon today, and final homeowners' documents, road maintenance and fire protection maintenance declarations have been provided. The Town Attorney has reviewed these documents and is satisfied with what she has seen so far; however, there are some recommendations in the staff notes that have not been incorporated into the legal documents.

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

Mr. Hughes confirmed with Ms. Fossum that the applicant's request regarding the conditional improvement as noted on the subdivision plan is Note #14 regarding "in lieu" language and must be voted on by the Board. Ms. Fossum said that the schedule of values provided to the Public Works Director has been reviewed by the Public Works Director and if the entire amount were to be posted, it would be found to be satisfactory. Mr. Parker suggested that the plan note be changed to read "125%"

Ms. Robie suggested that there are three major issues for discussion: 1) does the DEP permit match what the plans say; which staff has not had a chance to review, since the permit was only received today; 2) the proposed homeowners' documents, which constitute the only legal guarantee that the requirements of the stream crossing and buffers will be followed; and 3) conditions described in the staff notes regarding the maintenance of the fire pond. Ms. Robie said she believes it is not reasonable to expect staff to have reviewed the DEP permit in the short amount of time since its receipt, and said she would like to read the DEP permit, since that involves the requirement of protecting the stream, assuring that the houses and buffers are appropriately placed, and dealing with the concerns of the IF&W. Mr. Frank said that the DEP permit addresses the wetlands impacts associated with the roadway development. Ms. Robie said that the change from sprinklers to the fire pond is another issue which must be discussed by the Board.

Ms. Fossum spoke of a recommendation made by R.W. Gillespie & Associates, the applicant's engineer for the evaluation of the proposed fire pond. The Town's review engineer recommends that a geotechnical engineer oversee the construction of the fire pond, and the maintenance plan for the pond should include the geotechnical report, should be reviewed and approved by the Fire Chief, and incorporated in the homeowners' documents. Ms. Fossum confirmed to Mr. Stelmack that this could be covered by a condition of approval, but said that the conditions contained in the staff report are suggestions meant to assist the Board and the Board may choose or not choose to use them.

Ms. Fossum said that the Town Attorney has no issues with what she had to review; however, Ms. Burns did not realize that there was a recommendation to include the fire pond maintenance into the homeowners' association legal documents as an exhibit.

The Board then discussed at length the responsibility of the maintenance of the fire pond, with Mr. Frank quoting from the Fire Chief's memo that "Once these ponds are installed, tested and approved, the Town of Gorham accepts all responsibility for maintaining them in future years." Mr. Zelmanow pointed out that in the same memo, however, the Fire Chief indicates that he believes this pond will be very expensive to maintain in future years and may require more maintenance than usual. Ms. Fossum said that the Fire Chief is aware that the homeowners' documents will refer to maintenance being done by the homeowners, and a maintenance plan needs to be included so that the homeowners will know what will be required. Ms. Fossum confirmed to Mr. Hughes that the unusual nature of the fire pond is the reason why it is

recommended that the homeowners assume the pond maintenance. Ms. Fossum confirmed to Mr. Zelmanow that there is no easement document for Town maintenance of the fire pond. Mr. Parker said that before voting on the project, he would like to hear specifically from the Fire Chief what he will approve as to the maintenance of the fire pond.

Ms. Robie summarized the issues to be resolved as follows: 1) the DEP permit; 2) fire pond issues; 3) in lieu agreement language; 4) legal documents protecting the buffers; and 5) granite monumentation. She polled the Board members on whether they are willing to either conditioning the application or moving it to a consent agenda. On the issue of the DEP permit, the Board was unanimous in moving the application to a consent agenda. She asked Mr. Frank to straighten out the issue of the fire pond maintenance.

**Thomas Hughes MOVED and Michael Parker SECONDED a motion to accept Site Plan Note #14 regarding the “in lieu” language with the stipulation that a figure of 125% be included as part of that note.**

Discussion: Mr. Stelmack pointed out that the correct Plan Note #14 is for the Second Amended Subdivision.

Mr. Hughes amended his motion to include “...**Site Plan Note #14 of the Second Amended Subdivision on the plan dated September 29, 2009.**” The seconder agreed with the amendment. **Motion CARRIED, 7 ayes.** [7:55 p.m.]

Ms. Robie confirmed with Mr. Frank that the granite monumentation will be accomplished once the neighbors have agreed to replacing the property pin with a granite monument and that no condition of approval is required on this issue.

Ms. Robie reiterated that the Board wants to be able to read the DEP permit, to be able to read the pond maintenance agreement, and to read the legal documents. The application will go on a consent agenda.

**Douglas Boyce MOVED and Edward Zelmanow SECONDED a motion to postpone final approval of this application to a consent agenda at a meeting date to be determined.**

Discussion: Mr. Hughes confirmed that the two major areas involve the DEP permit and the pond maintenance. Ms. Fossum said that a special meeting can be held with 72 hours notice with a majority of the Board being available, and that the media would need to be notified. Mr. Boyce said that the meeting should be held as quickly as possible.

**Motion CARRIED, 7 ayes.** [8:05 p.m.]

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**5. SUBDIVISION - WINSLOW ROAD SUBDIVISION – OFF WINSLOW ROAD NEAR ROUTE 237 – BY STJ, INC**

Request for final approval of 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. He noted that the right-of-way to the abutting property has been included on the plan, the road has been redefined, and the hammerhead is now on the right. He said there has been a trade of property with an abutter. Mr. Frank said there no grading plans have been prepared as yet.

Mr. Poirier gave staff comments, noting that the Net Acreage Calculation requires slope areas of 20 to 33 percent shall be deducted unless the developer can demonstrate to the Planning Board’s satisfaction that these slopes will be used as part of the overall plan for development, the slopes are stable for development, and will minimize soil erosion. He asked whether the Board wants the slope areas between 20 to 33 percent deducted from the net acreage or is it satisfied with the applicant’s plan for development.

He said that staff received revised homeowners' association documents and easement deed information which have been reviewed by the Town Attorney and the Town's review engineer; those comments are included in the staff comments. The Public Works Director has requested a condition of approval to read "That prior to commencement of construction, the applicant shall provide a maintenance bond in an amount to be established by the Public Works Director against potential damage to Winslow Road and prior to the start of construction the developer will present to the Department of Public Works a video of the existing road surface that will be used to evaluate damages occurring over the construction period."

**PUBLIC COMMENT PERIOD:** Deborah Coppersmith, Dunlap Road, asked if abutters to the right-of-way would be notified should the Town wish to do anything with that property or if the road were to be continued. Mr. Poirier said that abutters would be notified if there were part of a subdivision on the other parcel because Ms. Coppersmith then would be an abutter to the abutting parcel. He said he is not sure what Public Works' standards would be if the Town did a clearing in the right-of-way. Ms. Robie commented that that piece of road continuation would not be deeded to the Town until the road that is built for this subdivision is accepted as a public road, which occurs when the road is completed and the subdivision owners decide to present it to the Town for road acceptance.  
**PUBLIC COMMENT PERIOD ENDED.**

The Board then discussed the issue of slopes of 20 to 33% and what is required of the applicant in the way of grading plans. Tommy Shaw came to the podium and said that it is difficult to provide a grading plan when the size of a proposed house is not yet known, that it is based on what a customer would want. Mr. Shaw said it is their intention to make all of the slopes less than 20%. After discussion, the Board and the applicant agreed to a condition of approval stating "That the applicant will add a plan note stating that the areas between 20 to 33% that were not deducted from the Net Residential Area calculations shall be graded to less than 20%." The Board concurred that it did not need to see record drawings.

Mr. Frank confirmed with the Board that Plan Note #12 should be updated to indicate that it is equal to 125% of the cost.

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to grant STJ's request for final approval of the proposed "Winslow Road Subdivision," a 6-lot residential subdivision on 12.35 +/- acres off Winslow Road with conditions posted prior to the meeting, discussed with the applicant, and modified during the meeting. Motion CARRIED, 7 ayes . [8:25 p.m.]**

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Thomas Fickett advised that he is an abutter on Waterhouse Road to this project but believes he is able to participate in discussion of the application.

**Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion that Mr. Fickett be allowed to remain on the Board to consider the application before it. Motion CARRIED, 6 ayes (Thomas Fickett abstaining). [8:26 p.m.]**

**6. PRIVATE WAY AMENDMENT – CORNUCOPIA WAY – OFF WATERHOUSE ROAD – BY ALEX FOX**

Request for Private Way Amendment to Cornucopia Way, to relocate the turn-around at the end of a 1300' private way located off Waterhouse Road. Zoned: Rural, Shoreland Zoning; Map 21 / Lot 13.003.

Robert Libby, BH2M, appeared on behalf of the applicant. He said that it was discovered that there was a setback violation where the original turn-around was located, so the solution is to relocate the turn-around to the other side of the road.

The Board recommended that the right-of-way be changed from 60 feet to 50 feet. The Board concurred that the old right-of-way did not need to be shown on the plans.

PUBLIC COMMENT PERIOD: None offered.  
PUBLIC COMMENT PERIOD ENDED

**Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant approval of the private way amendment of Cornucopia Way off Waterhouse Road with conditions of approval as posted prior to the applicant and discussed with the applicant. Motion CARRIED, 7 ayes.**  
[8:31 p.m.]

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**7. SCHEDULE NEXT MEETING – No optional meeting is required, but a special meeting is required to be scheduled for the Christopher Duchaine application.**

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**8. ADJOURNMENT – 8:31 P.M.**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2009

**5. WINSLOW ROAD SUBDIVISION – OFF WINSLOW ROAD NEAR ROUTE 237 – BY STJ, INC**

**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 minimis 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 prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange for a pre-construction meeting with the Planning Staff, Public Works Director, Fire Chief, Code Enforcement Officer, Town's Inspecting Engineer, Site Contractor, and Design Engineer to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
4. That all site construction work shall be carried out in conformance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices and in accordance with the Erosion and Sedimentation Control information contained in the application;
5. That 4 (four) complete sets of the final approved plan set will be delivered to (1) the Inspecting Engineer, (2) Public Works Director, and (3) Director of Planning one week prior to the pre-construction meeting;
6. That the applicant shall submit easement deeds and legal documents for review and approval by Town Staff and Town Attorney prior to the Planning Board's endorsement of the final plan;
7. That the applicant shall meet all of the Fire Chief's requirements as outlined in his memo to the Town Planner, dated August 11, 2009, as outlined below:
  - a The road will be properly named and signed, with the name being approved by the Police and Fire Chiefs. The street sign shall be installed as soon as the street is constructed.
  - b The sprinklers shall meet all applicable sections of the Towns sprinkler ordinance. The sprinkler plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting at least two weeks prior to the start of installation of the system.
  - c Sprinkler test papers shall be provided at the time the certificate of occupancy is issued.
  - d All houses shall be properly numbered with numbers being visible from the street year round.
8. That the applicant shall provide property line information and site information in auto-cad format to the Town of Gorham Tax Assessor prior to the scheduled pre-construction meeting;
9. That the applicant will add a plan note stating that the areas between 20 to 33% that were not deducted from the Net Residential Area calculations shall be graded to less than 20%;
10. That prior to commencement of construction, the applicant shall provide a maintenance bond in an amount to be established by the Public Works Director against potential damage to Winslow Road

and that prior to the start of construction the developer will present to the Department of Public Works a video of the existing road surface that will be used to evaluate damages occurring over the construction period;

11. That 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 condominium association and/or the lot owners shall be responsible for all costs related to the driveway, landscaping, and stormwater infrastructure. 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
12. That these conditions of approval and the Final Plan 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 scheduling a pre-construction meeting.

**6. PRIVATE WAY AMENDMENT – CORNUCOPIA WAY – OFF WATERHOUSE ROAD – BY ALEX FOX**

**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 applicants 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 of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That all other applicable conditions of approval attached to the past private way approvals shall remain fully in effect;
5. 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 planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Director of Planning;
6. 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, Town Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
7. That the private way shall be properly maintained for access of emergency vehicles year round;
8. 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; and
9. That the 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 plan and a copy of the recorded decision document be returned to the Town Planner.