



Town of Gorham
October 8, 2009

SPECIAL MEETING MINUTES

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

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK**

Members Absent:

**Douglas Boyce
Thomas Fickett
Edward Zelmanow**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
BARBARA SKINNER, Clerk of the Board
SANDRA MOWERY, Zoning Administrator**

Staff Absent:

Thomas Poirier, Assistant Planner

The Chairwoman called the meeting to order at 9:00 a.m. and read the one-item agenda. The Clerk called the roll, noting that Douglas Boyce, Thomas Fickett and Edward Zelmanow were absent. Ms. Robie said that there are seven waivers, signed by each Board member, allowing a special meeting to be held without 72-hour notice.

1. 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. The Board will review and consider the final private way and subdivision plan requirements and DEP permit, the question of fire pond maintenance and legal documents associated with the development.

Shawn Frank, Sebago Technics, referred to the four specific items of concern discussed by the Board at its October 5, 2009 meeting: 1) granite monument at the intersection of the private way and Buck Street, now shown on the plan; 2) the “in lieu” language on the plan has been revised to show 125%; 3) maintenance of the proposed fire pond, with the Fire Chief now proposing to maintain the pond and if there are any construction issues associated with the pond, the homeowners will assume the responsibility; and 4) the homeowners’ documents have been approved. Mr. Frank said that the DEP permit has been received.

Mr. Stelmack clarified with Mr. Frank that the DEP permit of October 2009 includes three permits. Mr. Frank replied to a query from Ms. Robie that the plan approved by DEP did not include the fire pond. Susan Duchaine said there has been correspondence with DEP about the pond.

Ms. Robie referred to a condition of approval in the DEP permit requiring that the wetlands be permanently marked prior to construction, suggesting that it be added as a condition to the Board’s plan, thereby making it enforceable by the Town under Gorham’s ordinances. Ms. Fossum read DEP’s condition #5 into the record as follows: “Prior to the start of construction on individual lots, the location of the wetlands shall be permanently marked on the ground and the deed for each lot that contains wetlands shall have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the wetlands on the lot.” Ms. Fossum said it would have to be added to the Board’s mylar before the Board signs it. Ms. Duchaine asked that it be a condition of approval rather than put on the plan because the mylars are ready to be signed today as DEP has extended its deadline to October 23.

Sandra Mowery, Zoning Administrator, came to the podium and asked if the conditions of approval already written do not require that the application will comply with all local, state and federal permit requirements, which would also include the DEP conditions. Ms. Fossum said that if it is written into the conditions of

approval, those are recorded in the Registry and are very clearly spelled out with the plan. Ms. Mowery said that it is the applicant's responsibility to fulfill all of the DEP's requirements.

Ms. Robie said that in the past, when there has been an issue about what aspect is governed by the DEP that is not explicitly added to the Gorham plan, any enforcement has been referred back to DEP and Gorham would not take any action because the Town does not have the right to enforce DEP covenants. Ms. Duchaine said she is aware of what DEP requires and will comply with those requirements. Mr. Frank said that the building envelopes will be established and the wetlands will be marked at the same time. Ms. Robie professed herself satisfied with the procedure outlined by Mr. Frank.

Mr. Parker asked if any condition of approval is required to deal with the fire pond maintenance. Ms. Fossum said she does not believe any special condition is required; any easement which is offered to the Town must go to the Town Council for acceptance. She said that the applicant's letter of October 7, 2009 dealing with his meeting with the Fire Chief is part of the submission, as well as the Fire Chief's memo and the standard condition of approval which allows him to inspect the pond and make his decision. Ms. Duchaine confirmed that they will do whatever the Fire Chief needs to have done. Ms. Mowery said that a field inspection escrow will be set up for this project and there will be an engineer in the field to verify that the pins are in place. She said that she herself will also verify that the pins are in place.

Mr. Hughes commented that if DEP is not monitoring wetlands, then must the Town of Gorham incur the cost of doing so. Ms. Duchaine said that Gorham has no wetlands specialist; if there is a problem or question, a call goes to DEP.

Mr. Parker asked if a condition of approval is needed to comply with DEP's requirement that "... the deed for each lot that contains wetlands shall have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the wetlands on the lot." Ms. Fossum said she does not believe that a special condition is required, as property cannot change hands until that is done, and the DEP permit is also recorded at the Registry when the deeds are recorded. She said that when deeds are recorded at the Registry, copies are automatically forwarded to the Town and filed in the Assessor's office.

Mr. Stelmack clarified for the record the caveat made by the Fire Chief that if he sees extenuating circumstances of concern during the construction of the pond he will recommend to the Town Council that they not accept the easement of the pond, and maintenance of the pond will then revert back to the homeowners.

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

Michel Parker MOVED and Thomas Hughes SECONDED a motion to grant 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) with conditions of approval as posted prior to the meeting and discussed with the applicant.

Discussion: Ms. Robie expressed her appreciation to the Board members present at this meeting and for having had the time to review the various documents presented.

Motion CARRIED, 4 ayes (Douglas Boyce, Thomas Fickett and Edward Zelmanow absent). [9:26 a.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2009

Approved

CONDITIONS OF APPROVAL

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;

1. That the applicant is responsible for obtaining all local, state and federal permits required for the development of this project;
2. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant and design engineer shall arrange a pre-construction meeting with the Town's selected inspecting 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;
3. That 4 (four) copies of the full plan set will be delivered to the Inspecting Engineer, Public Works Director, Code Enforcement Officer, and Director of Planning one week prior to the pre-construction meeting;
4. That all applicable conditions of approval and plan notes attached to the original subdivision approval shall remain fully in effect;
5. That the private way shall be maintained year around to allow emergency vehicle access;
6. That the houses shall be properly numbered with the numbers being visible from the private way year around;
7. That prior to the Planning Board's endorsement of the final plans the applicant shall submit revised legal documents addressing the Town Attorney's review comments dated July 13, 2009 and September 25, 2009 for review and approval by the Town Attorney;
8. That no building permits shall be issued for this subdivision until the pond is installed tested and approved by the Fire Department and Public Works Director in accordance with General Note 11 on the Private Way Plans;
9. That prior to the commencement of construction of the private way, the applicant will establish a performance guarantee with the Planning Department to cover the cost of construction of the private way;
10. 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;
11. That 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;
12. That the applicant shall provide property line information and site information in auto-cad format to the Town of Gorham Assistant Planner prior to the scheduled pre-construction meeting;

13. That prior to the issuance of any occupancy permits for any of the lots served by the private way, the developer's engineer shall submit an accurate final set of stamped "as-built" record drawings meeting the approval of the Town Engineer;
15. That the private way right of way shall be marked with granite monuments at the two points where it intersects with Buck Street;
16. That prior to the issuance of occupancy permits for any of the lots served by the private way, the Developers Engineer shall certify to the Code Enforcement Officer that the private way has been constructed in accordance with this section and the approved Private Way Plan;
17. That a geotechnical engineer oversee the construction of the fire pond, to consist of at least three site visits – one at the beginning of construction, another as the pond bottom is exposed while the pond is dewatered, and an another near the completion of the pond. The Planning Department and Code Enforcement Office should be copied on all site inspection reports and photos;
18. That these conditions of approval, approved maintenance agreement and Declaration of Protective Covenants and Restrictions, Subdivision and Private Way Plans 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 issuance of any building permits for any of the lots within the subdivision.