



Town of Gorham
April 5, 2010
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
MARK STELMACK
EDWARD ZELMANOW

Not Present:

MICHAEL PARKER

Staff Present:

THOMAS POIRIER, Town Planner
BARBARA SKINNER, Clerk of the Board

The Chairwoman called the meeting to order at 7:00 p.m. and read the Agenda. The Clerk called the roll, noting that Michael Parker was not present.

Approval of the March 1, 2010 Minutes

Thomas Hughes MOVED and Edward Zelmanow SECONDED a motion to approve the minutes of March 1, 2010. Motion CARRIED, 5 ayes (Thomas Fickett abstaining as not having been present at the March 1 meeting; Michael Parker not present). [7:05 p.m.]

Committee Reports

A. Ordinance Review Committee – Ms. Robie reported that the Town Council’s Ordinance Committee has not met this month, nor has the Board’s Ordinance Review Committee met.

B. Sign Ordinance Sub-Committee – Ms. Robie reported that this Sub-Committee has not met, and all of the recommended changes to the sign ordinance resulting from the implementation phase of the ordinance have been passed by the Town Council.

C. Streets And Ways Sub-Committee – No report.

Administrative Review Report – Mr. Poirier reported that the Site Plan Review Committee recently approved the application from Alpine Realty for a change to the loading dock located at 17 Gorham Industrial Parkway. A preconstruction meeting was held on March 30, and construction is currently underway. There are no changes to the Administrative reviews for 80 Main Street or the Mallison Street recreation area..

Mr. Poirier reported that the applicant in the proposed Chase development on Main Street is currently awaiting the draft report on the South Gorham sewer study before proceeding forward with addressing staff comments from staff’s last review. He said he assumes that a draft will be forthcoming within the month. Ms. Robie noted that one of the issues on this application was to schedule a site walk while the groundwater was high. Mr. Hughes commented that the new Planning Board certainly would want to be on the site walk, but the new Board will not be on board until the May meeting, and therefore a sitewalk should be scheduled at that time, regardless of whether the applicant is ready to come back before the Board. Mr. Boyce noted that staff should contact the applicant and make sure that a vernal pool study has been or will be done. Mr. Poirier said he will contact the applicant’s representative.

Item 1: Consent Agenda

A. Richard Aube, Cherry Hill Farms Estates Subdivision Amendment.

Proposal from Richard Aube, Owner, to amend the Cherry Hill Farms Estates Subdivision for the removal of lot 14 from the approved subdivision located at 57 Finn Parker Road, Map 89/Lot 10.314, in the Rural (R) zoning district.

Ms. Robie explained the process involved in the consideration of Consent Agenda items and noted that unless a Board member or a member of the public so requested, the item would not be discussed as it is administrative in nature and has been recommended for approval by staff.

No member of the Board wished to remove the item from the Consent Agenda.

PUBLIC COMMENT PERIOD OPENED: Debbie Peyton, 31 Dewayns Way, asked that the item be removed from the Consent Agenda.

Mark Stelmack MOVED and Douglas Boyce SECONDED a motion to remove the item from the Consent Agenda for discussion. Motion CARRIED, 6 ayes (Michael Parker not present). [7:15 p.m.]

Ms. Peyton asked for an explanation of where the lot in question is and why the applicant wishes now to change its status in the subdivision. Ms. Robie said that the lot is not being “removed” as it was never really part of the subdivision by law. Shawn Frank, Sebago Technics, representing Mr. Aube, explained that Mr. Aube had purchased the corner lot and existing house on the corner of Finn Parker Road and Dewayns Way prior to the subdividing of the property by the original developers, Thomas and James Shaw. At that time, approximately 10 years ago, it was deemed that the lot had to be shown as a lot so it was numbered and shown as a lot within the subdivision, although it actually was not within the subdivision. Mr. Frank said that Mr. Aube now wants to remove the lot from inclusion within the subdivision.

Ms. Peyton returned to the podium and asked for confirmation that there is nothing the abutters within the subdivision can do about the removal of the Aube lot and that they do not have the right to know what will be done with the lot. Mr. Poirier said that Mr. Aube will be allowed to do whatever is allowed in the Land Use Code for the Rural District. Mr. Zelmanow said that whatever is done with the lot also needs to be consistent with any recorded restrictive covenants currently existing on the property.

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion to approve the amendment to the Cherry Hill Farms Estates subdivision for the removal of Lot 14 from the approved subdivision located at 57 Finn Parker Road, Map 55, Lot 10.314, as requested by Richard Aube. Motion CARRIED, 6 ayes (Michael Parker not present). [7:25 p.m.]

Item 2: Amendment to the Gorham Land Use and Development Code -- Public Hearing.
Amendment to the Land Use and Development Code, Chapter I, Zoning Regulations, Section XVIII. Development Transfer Overlay District, E. Performance Standards, 5. Open Space relating to Lot Size.

Ms. Robie explained that the purpose of the amendment to the Code is to allow for the setting aside of less-than-lot-sized pieces of land for specific formal spaces or recreation facilities in a Development Transfer Overlay District approved subdivision for such things as school bus stops with waiting shelters, benches, and pocket gardens to be created by the developer without having to set aside these small pieces of land as easements from developed lots. Ms. Robie read both the current language in the Code and the proposed language as follows, with the proposed language hereinafter shown as underlined:

“5. Open Space

A portion of any new subdivision or project with more than ten lots or units must be set aside within the development and permanently protected as open space to serve the residents of the project. This requirement is in addition to any requirement for the payment of a recreational facilities or open space impact fee. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space must include an area of usable land as defined by the net acreage provision that is at least five percent (5%) of the total net acreage of the parcel (for example, if the net acreage of the parcel is twenty acres then at least 5% or one acre of the open space must be usable land).

The required open space within the subdivision or project may be used for the following types of uses:

- formal open spaces such as greens, commons, and parks
- passive recreation areas
- natural resource or conservation areas

At least fifty percent (50%) of the required usable land within the open space shall be developed for formal spaces or recreation facilities. The Planning Board may waive or reduce this requirement if it finds that, due to the scale of the development, compliance with this requirement will not result in usable open space.

The setting aside of less-than-lot-sized pieces of land for specific formal spaces or recreation facilities is only permitted in a Development Transfer Overlay District approved subdivision. These areas can be aggregated to meet the 50% of the required usable open space and shall be developed for formal recreation facilities use. Formal recreation facilities shall include, but not limited to, school bus stops with waiting shelters and/or benches or structures of any type, public monuments, small parks or gardens with structures such as benches or fountains, playground sets, basketball courts, etc. trail heads with amenities, picnic tables etc. may occupy less-than-lot-sized areas within the development. Where appropriate the Planning Board may require buffering or screening from adjoining residential properties.

No parcels less than required lot size may be set aside for any other open space requirements prescribed in the Development Transfer Overlay District standards such as passive recreation areas, or natural resource or conservation areas.”

Mr. Zelmanow suggested changes as follows: deletion of the word “etc.” as it appears after “basketball courts”, and addition of the word “and” after “picnic tables, etc.” so that the wording would read “... basketball courts, ~~etc.~~ trail heads with amenities, picnic tables, etc. and may occupy less than...” Mr. Stelmack suggested adding the word “be” to the phrase “... shall include, but not be limited to, ...”

Ms. Robie proposed that a line be added to make this ordinance change retroactive to the date of the acceptance of the Development Transfer Overlay District, which was September 5, 2006. She said that only one application has been approved under the requirements of the DTO District, and in that instance two easements had to be created for two bus stops. In the event the developer has not sold those lots, it would do no harm to relieve him of the obligation to create those easements from the adjoining residential lots. The Board concurred with the suggestion to make the ordinance change retroactive.

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

Edward Zelmanow MOVED and Mark Stelmack SECONDED a motion to recommend adoption of the proposed amendment to Gorham Land Use and Development Code, Chapter I, Section XVIII, E. 5 as discussed and amended here this evening. Motion CARRIED, 6 ayes (Michael Parker not present). [7:45]

Item 3: Site Plan – Discussion

Town of Gorham, Chick Property, Phase I.

Proposal to construct Phase I of the Chick Property, which consists of a storm water management wetpond, a connection road between State Route 25 and 202, and two parking areas with 103 parking spaces on 85.38 acres located at 270 Main Street, Map 26/Lots 4 and 4.001, Map 30/Lots 14, 15, and 17, and Map 99/Lot 53, in the Urban Residential and Office Residential (UR & OR) zoning districts.

Ms. Robie noted that the Town of Gorham is the property owner, and Stephen Bushey of DeLuca-Hoffman is the owner's agent. She commented that the Board is obligated to treat Town projects in the same way that a private developer's site plan is treated and that everyone must be held to the same standards. Mr. Hughes pointed out that only Phase 1 is under discussion at this time. Ms. Robie said that the entire project must be discussed in light of the DEP permit relating to the entire 85-acre site, but only those items in Phase 1 are under consideration this evening.

Stephen Bushey approached the podium and discussed the various activities proposed for the so-called Chick property, including the determination by the DEP that the site needs to get permitting coverage under the Site Location of Development Act, only because since 1975 over three acres of impervious area have been created on the property. Mr. Bushey presented an overview of the phases involved, the first being for the initial activities on the property for which approval is now being sought. In addition, the application package provides the master plan for the property, the long-range forecast for activities which will come back before the Planning Board as those activities take place. He noted that development of the master plan began in the early 2000s, and while it has changed over time, there are certain potential developments such as an increase in playing fields, a possible recreation department building, some additional school space on the Narragansett School, and some connectivity between Route 25 going over to Route 202. Future activity would include parking to serve the ball fields, linking vehicle and pedestrian access to Libby Avenue, more parking behind the school, and providing separation between the bus dropoff for the School and parent dropoff and pickup zone, as well as parking.

Mr. Bushey gave a general overview of the 85 acres of the property, pointing out various elements such as the Narragansett School, public safety buildings, playing fields, Bouchard Drive, wetland areas, and the abutting properties on the easterly and westerly sides of the property.

Mr. Bushey reiterated that over 3 acres of impervious surface have been created on the property since 1975, most of that because of the School area. There are about 8.9 acres total impervious surface, including the School, parking area to the side of the School and public safety area; however, the majority of the impervious surface was created with the development of the School in the 1980s. Unfortunately, a Site Location Permit was not obtained for the School, and DEP has now advised the Town that an after-the-fact permit is required. In doing so, the DEP's primary concern under the 2009 Site Location review criteria is the stormwater management, with the Town now being required to meet the current Chapter 500 requirements for stormwater management. What has been reviewed, therefore, is not only what is required for the School, but what would need to be in place for the overall master plan, which has resulted in a design for a wetpond, which is one of the major ways now available for treating stormwater management requirements not only for quantity control to prevent downstream flooding conditions, but also today to achieve quality treatment of the stormwater runoff from impervious surfaces. A wetpond is the most practical method for dealing with a

large piece of property. Mr. Bushey said the site is broken into two watershed divides: water about half-way through the site flows to the south, and then water also flows to the north to a tributary to the Tannery Brook. For the purposes of the initial proposal and construction, the wetpond will serve all of the existing development area, the School and public safety buildings, and has been sized for future activities that could take place with parking and other development on the southerly side of the site.

Mr. Bushey said that the permit application was submitted in early 2009 to the DEP and permit approval was provided to the Town in June of last summer. One of the major components of the DEP approval is the construction of the wetpond. The wetpond is essentially lawn area, out behind the line of four trees, one of which is the Town's Christmas Tree, and in between the loop to the School. The lawn area will be excavated to construct the wetpond. Mr. Bushey confirmed to Ms. Robie that most of the wooded area will remain next to the School.

The other major piece of the initial phase includes an access connection between Route 25 and Route 202, the Gray Road, located in the same area as the driveway for the public safety building. The driveway will be moved westerly into the parking lot, running the road along the perimeter of the field space and emerging on Route 202. The fire department will continue to use its driveway out to Route 25 and that department's use of the new access road may be primarily to return to the public safety building. The police department, which generally uses the west side of the public safety building, will gain access to Route 25 and Route 202 through the use of the new road. The new access road would also provide better access to the School, although this would be involved in the master plan in the future. Because of the disruption to the existing parking lot to the west of the public safety building, part of the road design also includes 39 parking spaces in front of the public safety building and reworking the area where the "silver bullet" recycling area is now located.

Mr. Bushey said that the Town is seeking to get Planning Board approval because the pond has to be built as part of the DEP approval and this is a good opportunity for the Town, given the current economic climate, to solicit bids for the pond's construction, and to do the same for the access road and parking lot.

Mr. Bushey responded to a query from Mr. Fickett about treatment of drainage off the proposed road in the form of roadside swales and ditches going into a closed system. He said a small amount will ultimately make its way into a pond which will be built in the future. In response to Mr. Hughes, Mr. Bushey said the road is designed as a 24-foot wide paved road, with the Public Works Director asking about the use of reclaimed material for 4-foot wide gravel shoulders. Mr. Bushey said inevitably there will be parking along the road as the ball fields are in use, so the shoulders will permit cars to pull over. Mr. Hughes expressed concern about the possible cut-through usage of the road and asked if stop lights will be installed. Mr. Bushey replied that a waiver is being requested from doing any further traffic study, given the fact that no new development activities are proposed on the site such as expanding the public safety building or the School at this time. He said, however, that as future activities develop under the master plan, such as the separation of the bus and parent dropoffs, there may be a requirement to evaluate what will happen with traffic. Mr. Boyce asked about the design of the proposed road, whether it is designed as a public street or whether it is simply to provide access to municipal facilities but not really intended to promote through use by non-municipal users. Mr. Bushey replied that it is being designed to Town street standards and it is their belief that it will be a Town road and be managed accordingly. Mr. Bushey replied to Mr. Boyce that there is no current intention to extend Bouchard Drive to physically connect to the new road. In response to a query from Ms. Robie, Mr. Poirier said that the new Code requirement for interconnection refers only to adjacent subdivisions. Mr. Stelmack, referring to the 2001 wetlands report by Normandeau Associates, Inc., asked if a vernal pool study was done. Mr. Bushey said that Normandeau was asked to revisit the site last spring and found that there was no evidence of vernal pools. Mr. Stelmack asked that a statement about vernal pools be provided. Mr. Stelmack and Mr. Bushey discussed the other agencies' reports included in the Normandeau report, particularly that of IF&W, and the presence of two buildings having the potential to be listed on the National Historic Register. Mr. Bushey commented that the Normandeau study was done in 2001 in

connection with the master plan initial study and report and performs some of the basis of the information provided now, and the vernal pool piece is the biggest issue.

David Cole, Town Manager, came to the podium and addressed the Board. With respect to the vernal pool issue, he said that Normandeau Associates did the investigation back in April of 2008 and certified that there were no vernal pools. Mr. Cole also said that there is no intention on the Town's part to connect Bouchard Drive to this road. Mr. Poirier reaffirmed that access to adjoining property relates to subdivisions only.

Mr. Bushey returned to the subject of the wetpond, saying there will be a gravel filter bench along one end, the depth will be as much as 6 feet within the pond, but there will be a bench around the perimeter of the pond, 3:1 slopes on the inside edge, and a ten-foot wide bench. There will also be a 4-foot chain link fence around the perimeter of the pond as well.

Mr. Poirier gave the staff comments, noting that Town staff and the Town's review engineer comments are included in the staff notes provided this evening. Items requested by staff for plan revisions or further clarification are underlined and bolded in the staff notes. Of note is the applicant's request for a waiver from site plan review procedures for major developments which require a traffic impact analysis demonstrating the impact of the proposed project when the site plan provides parking for fifty or more vehicles. Mr. Poirier suggested that the Board could wait until after the site walk to vote on the waiver request. Staff will schedule a site walk toward the middle or end of next week.

At Ms. Robie's request, Mr. Poirier noted that under the requirements for parking, loading and traffic in Chapter II, there is a buffer provision that parking which abuts a lot in the residential zone or a in a residential use requires a landscaped buffer or fence of not less than 48 inches in height. The Planning Board should review existing vegetation on the site to ensure that the landscaping requirement has been met.

PUBLIC COMMENT PERIOD OPENED: Noel Dunn, 85 Gray Road, noted that her property is next to where the proposed road will exit on to Route 202. She believes that the road will be too close and says it appears that her entire property will be surrounded by three roads. She suggested that the access of the proposed road be moved, which will also improve sight distance. She asked how close the road will come to her property line in the back, and asked for stockade fencing around her property to protect her privacy. She asked for confirmation that an official boundary survey will be done.

Grant Caron, 16 Bouchard Drive, commented that the proposed road is too close to the residential properties abutting it.

PUBLIC COMMENT PERIOD ENDED.

Ms. Robie commented that the next step in the process will be the site walk, for which all abutters will receive notice. Interested parties can be asked to be notified as well. She said that the Board will physically look at the issues raised by the abutters, and asked that the center line of the proposed road be marked for the site walk. Ms. Robie said that only one approval is required for major site plan so there has to be at least one more meeting where modified plans have to be presented to the Board prior to approval, and a 14-day notice of public hearing provided prior to the hearing. She also noted that all the plans are available for review at the Planning Office as they come in to the office.

Mr. Zelmanow and Mr. Hughes commented that the site walk should not be scheduled until the 4 new Board members are seated. Mr. Poirier said that staff will try to set up a site walk in the near future based on the Council's decisions the following evening about appointing new Board members. Mr. Cole said he believes it will be a while before a full Board is seated, but in light of the current economic environment the sooner the Town can get out for bids the better off it will be. As a result, Mr. Cole said he would like to have the site walk scheduled as soon as possible and that the current Board members can reach a decision, so as not to interrupt the application in the middle of some members coming and going. Mr. Cole said it is possible that

there will be some Board members appointed in time for the May regular meeting but he doubts there will be 4 members appointed by then. The Board concurred that a site walk should be scheduled as soon as possible.

Ms. Robie said another meeting can be scheduled for April if necessary, but more importantly, the Board should give Mr. Bushey as much feedback as possible this evening regarding the current application. She said there is an issue of buffering, particularly as it becomes publicized that the road comes up against the back of at least a dozen houses. She said that the ordinance requires when going from one use to another in that district, buffering must be done to the satisfaction of the Board, who takes into account the concerns of the abutters. The applicant has not yet made any provisions for that. In addition, Ms. Robie said that the nature of the road is unclear as to where it will be curved or what the shoulders will be, and how can the road can be properly designed if there is no traffic study to determine how many people will use it.

The Board discussed at length the possible use of the road, anticipated number of users, and its potential as a cut-through. Mr. Boyce recommended that a traffic engineer should be engaged to provide input on the two terminus points on Main Street to determine the adequacy of sight distance there and at 202, with information as well on the number of turning movements from both Route 25 and 202. Mr. Boyce said there may be enough existing information already available on traffic counts, and also suggested that input be solicited from both the police and fire departments as to the benefit of having the proposed road connected to Route 202. Mr. Hughes said that once the road is proposed to connect to 202 there are too many traffic issues not to have a traffic study done, but if the initial purpose of the road is to access the athletic fields in a proper manner then the road should perhaps end in a turnaround. Emergency vehicle access can be through a pass-accessible gate. Mr. Zelmanow asked if there will be a posted school speed. Ms. Robie suggested that the proposed new parking lot in front of the building be screened from the road.

Ms. Robie and Mr. Bushey discussed the IF&W request for a 100 foot-wide buffer, with Ms. Robie suggesting that this be something that the Board can look at during the sitewalk.

Ms. Robie suggested that the application be split into two so that the wetpond is considered first. Mr. Bushey said he will cover most of the Board's points at the site walk. Mr. Bushey said that the road is designed to the Town's suburban collector road standard, and that the centerline of the road, the parking lots, ball fields and wet pond will be delineated for the sitewalk. Mr. Stelmack confirmed with Mr. Bushey that there are 14 properties abutting the proposed new road. Ms. Robie and Mr. Bushey discussed the Public Works Director's interest in having the Main Street culvert replaced. Mr. Poirier said that the Board has made it clear that more information is needed from Mr. Bushey on the traffic issue to determine if it meets the definition of what the Board considers a traffic analysis for this project and to decide whether or not to waive the requirement. Mr. Poirier also noted that there is a 7 day public hearing notice requirement and not 14 as mentioned by Ms. Robie.

The Board discussed possible dates for a second April meeting and agreed that a sitewalk should be scheduled for Thursday, April 15, 2010 at 5:00 p.m.

ADJOURNMENT

Thomas Fickett MOVED and Douglas Boyce SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Michael Parker not present). [8:50 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2010

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