



**Town of Gorham
March 1, 2010
PLANNING BOARD MINUTES**

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

Members Present:

**SUSAN ROBIE, Chairwoman
DOUGLAS BOYCE, Vice Chairman
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

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

Members Absent:

THOMAS FICKETT

The Chairwoman called the meeting to order at 7:00 p.m. and read the Agenda. The Clerk called the roll, noting that Thomas Fickett was absent.

Approval of the January 11, 2010 Minutes

Mark Stelmack MOVED and Thomas Hughes SECONDED a motion to approve the minutes of January 11, 2010. Motion CARRIED, 6 ayes (Thomas Fickett absent). [7:05 p.m.]

Committee Reports

A. Ordinance Review Committee – Ms. Robie reported that the Town Council’s Ordinance Committee met this month; she, Mr. Zelmanow and staff attended the meeting. Ms. Robie said she reported on the Board’s thinking for an ordinance change to allow small parcels less lot size for formal open space in the Development Transfer Overlay District. Ms. Robie said she requested that the Council’s Ordinance Committee send it back to the Council and that the change be made retroactive so the one DTO District project now existing can take advantage of this provision, if the lots containing the easements have not already been sold. The Council’s Ordinance Committee did vote to send the proposed change back to the Council.

The Council’s Ordinance Committee also discussed an ordinance to regulate disorderly buildings, which is an ordinance that is not part of the Land Use and Development Code. The Council had asked the Planning Board to review the ordinance language to determine where fraternities are defined, which is under rooming houses, so wherever rooming houses are permitted, fraternities are allowed. The Ordinance Committee asked the Planning Board to develop definitions which would separate fraternities and sororities attached to the University of Southern Maine from rooming houses. The Council’s Ordinance Committee could then make a recommendation to the Council to change the definition and perhaps develop an overlay district for such establishments.

In addition, the Committee discussed a possible ordinance regarding farm animals in residential areas, again not part of this Board’s deliberations.

Finally, the Committee discussed an ordinance to regulate windmills in the Town, which may or may not be a land use item, although cell towers are covered in the Land Use Code.

B. Sign Ordinance Sub-Committee – Ms. Robie reported that all of the proposed sign ordinance revisions have been adopted by the Town Council, so if further issues arise, the Sign Ordinance Sub-Committee in the future will have to propose ordinance changes to deal with them.

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

Administrative Review Report – Mr. Poirier reported that staff has received one new Administrative Review site plan application from Alpine Realty for 17 Gorham Industrial Parkway, on February 25, 2010, requesting approval of the construction of an at-grade loading dock. The application was distributed for staff review on February 26, 2010. He reported that currently under review are requests from CMP for the South Gorham corridor expansion, and for the proposed coffee and wine shop at 80 Main Street.

Mr. Poirier said no new submissions have been received for Planning Board review. He told the Board that the proposed development of the South Street/Sawyer Estate project by John Chase is on hold pending the South Gorham sewer study draft report from the Portland Water District becoming available to see how Sawyer Estates proposed sewer systems will tie into that study. Mr. Poirier said that the draft report is estimated to be available in April, so there could still be a site walk scheduled in the spring. Mr. Parker said that a site walk should be scheduled regardless of the status of the PWD report; Mr. Hughes and Ms. Robie concurred. Mr. Zelmanow noted that there will be new Board members who will need to make a site walk.

Item 1: Consent Agenda

A. Design Dwellings – Subdivision and Site Plan Amendment – Hawkes Farm

Proposal to convey 331 sq.ft. of Hawkes Farm Subdivision land previously included as common open space at the intersection of Main Street and Tink Drive to the abutting out-parcel on Main Street for the installation of water service from Tink Drive. Zoned OR and UR, M26/L13, 13.002 and 13.003.

At the request of Stig Ammentorp, son-in-law to abutter Dorothy Shaw at 249 Main Street, the Board took Item A off the Consent Agenda.

Michael Parker MOVED and Douglas Boyce SECONDED a motion to remove Item A off the Consent Agenda. Motion CARRIED, 6 ayes (Thomas Fickett absent).

Mr. Ammentorp asked for clarification of the proposal, which was provided by Mr. Poirier. Mr. Ammentorp asked for a water diversion of some kind in order to channel water away from his mother-in-law's property. Susan Duchaine, Design Dwellings, offered to meet with Mr. Ammentorp to discuss the problem.

Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant approval of the Hawkes Farm Subdivision site plan amendment as proposed by Design Dwellings with the proposed conditions of approval. Motion CARRIED, 6 ayes (Thomas Fickett absent). [7:15 p.m.]

Item 2: Amendments to the Gorham Land Use and Development Code -- Public Hearing (Continued) – Amendments to the Land Use and Development Code, Chapter II, relating to auxiliary public utility structures.

Ms. Robie read the definition of “auxiliary public utility structure” as follows:

“A structure not to exceed 500 square feet in gross floor area and 16 feet in height, operated by a public utility, including but not limited to pumping stations, excluding wireless telecommunications towers and wind turbines.

- a) Such utility structures must remain unoccupied except for required maintenance.

- b) Vegetative screening is required where such structures abut residential uses, and may be required along a public and or private way.”

She explained that auxiliary public utility structures will be added to the Space Standards and are exempt from the minimum lot size, building coverage, and street frontage requirements of the district in which they are permitted, must meet setback requirements, and that additional screening and buffering can be requested by the Planning Board. This language has been added to the Urban Residential District, the Suburban Residential District, the Rural District, the Little Falls Village Center District, the Gorham Village Center District, the Urban Commercial District, the Roadside Commercial District, the Industrial District, the Commercial Office District, the Office Residential District, the Manufactured Housing Overlay District, the Narragansett Development District, and the Development Transfer Overlay District. She said that the purpose of this amendment is to provide that an entire lot does not have to be devoted to a pumping station, but in order to protect abutters, setbacks and buffering must be required.

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

Thomas Hughes MOVED and Edward Zelmanow SECONDED a motion to recommend adoption of the proposed amendments to the Gorham Land Use and Development Code, Chapter I, Sections V through XVI and Section XVIII to the Gorham Town Council. Motion CARRIED, 6 ayes (Thomas Fickett absent). [7:21 p.m.]

Item 3: Site Plan/Special Exception - Public Hearing - Pine Crest Bed and Breakfast, LLC, (Matt Mattingly, owner’s agent), proposal to open a public dining facility within the existing Bed and Breakfast establishment on 0.76 acres at 91 South Street. Zoned UR, Map 106/Lot 42.

Matt Mattingly came to the podium and commended the departing Board members for their dedicated service, effort and commitment to the Town. He then went on to discuss his business model for a commercial establishment in the middle of a residential neighborhood, the business model having a double bottom line involving both the monetary line item and the community side line item. Mr. Mattingly equated running the bed and breakfast as having a gathering in his own house inasmuch as he and his family live at the PineCrest.

Ms. Robie pointed out that the correct description for this project must be “Bed and Breakfast Establishment with public dining as an accessory use,” which is what is allowed in the ordinance.

Mr. Poirier gave the staff comments, noting numerous items listed in the staff notes of February 25, 2010, which remain to be addressed such as the items listed in the kitchen area by the Code Enforcement Officer to insure that those facilities meet the Maine State Plumbing Code. Mr. Poirier asked if the Board would like to see “ability to serve” letters from the Portland Water District regarding both water supply and sewage disposal. Mr. Poirier said that the current plan shows landscaping within the sidewalk area. The applicant needs to provide information demonstrating financial and technical capacity. The proposed “Captive Aire” commercial ventilation unit lists a sound measurement of 63.4 decibels which has been taken 5 feet from the unit, but the unit appears to be 50 feet from the nearest shared property line so there needs to be a sound measurement from that distance as well.

Mr. Poirier said that the applicant needs to provide a revised parking plan meeting the requirements of the Land Use Code. Mr. Poirier said that the applicant shows parking spaces 9 through 13 in the front yard setback, but these spaces are not allowed under the Code. He quoted the parking requirements listed in the Code for a bed and breakfast establishment with public dining as an accessory use as 1 on-site parking

space per guest room, 2 parking spaces for the residential unit, 1 parking space for each staff person, and 1 parking space for each 2 licensed restaurant seats, with legal on-street parking spaces located along the lot frontage adjacent to a public right-of-way being able to be counted as off-street parking. The applicant has identified 25 total parking spaces as requirement parking. In this instance staff has calculated the maximum number of allowed public dining patrons as 35, which would increase the required public dining spaces to 18 instead of the 14 spaces identified by the applicant. He noted that while the applicant has not requested 35 seats, the maximum number to which he is entitled based on the number of guest rooms, he suggested that the Board should consider how many seats they want to look at when approving the project. Mr. Poirier said that should the applicant wish in the future to increase the dining area to accommodate 35 seats, he would have to return before the Board unless he uses the maximum number at this time to calculate his parking requirements. Mr. Poirier said that with the 7 additional parking spaces located along the lot adjacent to South Street, there would be a total on-site and legal on-street parking along South Street of 15 spaces. He noted that the applicant is requesting a waiver for 10 parking spaces.

In response to a query from Ms. Robie, Mr. Poirier said that without a revised plan meeting the parking ordinance, this application is not complete. Ms. Robie noted that if an application is not complete, the Board can discuss the applicant's request for a parking waiver, but cannot vote on providing the waiver. Mr. Mattingly asked what had happened to the sketches that Planning had done, had they been provided to the Board. Mr. Poirier replied that the sketches had been done simply as suggestions for the applicant to consider and that staff cannot design plans for the Board to review. Mr. Stelmack asked for confirmation that the two parking spaces at the rear of the site are dedicated for staff use.

Ms. Robie commented that the bed and breakfast ordinance was written based on the actual number of proposed diners, rather than on the hypothetical seats that might be possible; she asked the applicant how many seats he would have and how many seats he is allowed to have. Mr. Mattingly said that the State Fire Marshal has set the capacity at 50, but the dining room is set for technically 20 seats, which he said is what was put on the application for the main dining room. Ms. Robie reiterated what Mr. Poirier said, that should the applicant wish to increase the number of seats in the future from 20, he would have to come before the Board again to show that the site has the additional parking required to do that. A discussion with Mr. Mattingly on whether people eat while at the bar resulted in the Board not including those 8 seats in the parking calculations. Mr. Mattingly responded to a question from Mr. Poirier that other than hotdogs and hamburgers in the summer during the summer concert series on Sunday afternoons, no outside dining on the patio is proposed.

Ms. Robie summarized the Board's discussion on parking saying that the Board needs to see a site plan showing the proposed parking, with handicapped parking. Mr. Mattingly said that his plan is to eliminate the spaces in the front setback and move them out on to the street and indicated that he has no interest in adding any additional paving for parking on site or moving the parking lot; should the Board require him to do so, he will withdraw the application. Mr. Poirier replied to a question from Mr. Boyce that the original approval did not include that parking, it was never approved that way, so the existing parking in the front yard setback is not allowed. Ms. Robie said that before a waiver can be voted on, the Board needs to see a plan that clearly shows what is under consideration.

Mr. Parker asked Mr. Poirier for an explanation of what the noise level would be at the property line. Mr. Poirier suggested that the applicant obtain this information from the manufacturer of the exhaust fan.

PUBLIC COMMENT PERIOD OPENED:

Ms. Robie read the following letter into the record from Scott and Sarah Lawrence, 6 Polliwog Lane.

“Dear committee members:

We are here tonight in support of the Pine Crest Inn's request to open its restaurant to the public. We have been club members since they started in 2006 and have enjoyed many Friday night dinners there often walking right from our house. I consider the Inn to offer the only fine dining (sic) available in Gorham in a comfortable and cozy atmosphere, in the winter dinner is enjoyed beside a fire and in the summer it can be had on the side porch all the while listening to live guitar music. There is no other place like it in town and think it would make a valuable addition to the dining (sic) choices here in town. It has been a pleasure getting to know Matt, Amy and Chef Mo over the years; they are all extremely friendly and accommodating. I think Matt is very community minded and is a bonus a many way's (sic) for Gorham ME, allowing the Pine Crest to open to the public can only be a plus for Gorham and our families.

Sincerely,
Scott + Sarah Lawrence
6 Polliwog Ln, Gorham"

Laura Clough, 90 South Street, directly across the street from the PineCrest. Ms. Clough spoke about the applicant's lack of a parking plan, the non-conformance of the existing parking lot, and the difficulty involved in parking on South Street, especially in the winter. She discussed the fact that while the application says the dining room seats 20, the existing bar, patio and enclosed porch area also should be counted as meals are served there as well; she herself has eaten on the screened porch. Ms. Clough mentioned that the PineCrest website indicates that the dining room capacity is 40 diners. Ms. Clough also spoke about the lighting issues involved, particularly the blue Christmas lights which are up all year, and the lights on the sign being on all night long. She commented about the noise issue and suggested that a professional needs to assess the impact of the exhaust fan. She mentioned the current Friday night "Happy Hour" in the bar from 5:00 p.m. to 9:00 p.m., asking about its impact on traffic, and asked if a peak hour study been done. Ms. Clough commented about the ADA requirements for the site, such as an ADA compliant restroom, and the handicapped parking requirements.

Linda MacLean, 9 Morrill Avenue, said she has lived almost 30 years on Morrill Ave, living at her current address for 15 years, which is directly behind the PineCrest. She spoke about the incremental impact on the neighborhood of the various changes which have occurred at the PineCrest, the noise from the concerts during the summer and the cooking odors.
PUBLIC COMMENT PERIOD ENDED. [8:35 p.m.]

Ms. Robie read the preamble to the Bed and Breakfast ordinance as follows:

"The purpose of this ordinance is to provide opportunity for the entrepreneurial use of existing homes and buildings in Gorham for the purpose of Bed and Breakfast facilities with and without provision for public dining facilities that can be used by other than overnight paying guests of the Bed and Breakfast Establishment. In addition it is the purpose of this ordinance to maintain the existing character of the neighborhood in which a Bed and Breakfast is located."

Ms. Robie summarized the issues discussed: parking, parking waivers, noise, meeting building codes, health safety codes, and fire codes. The Board agreed that a letter from the Portland Water District on capacity to serve is not necessary. At Mr. Parker's request, Mr. Mattingly explained that the figure of 40 on the website refers to standing with no tables or chairs, and is a marketing number for events such as weddings, and the website could be modified to clarify this. He said that the happy hour is for guests.

The Board also discussed the issue of providing at least one dedicated handicapped parking space. Mr. Poirier said that the State Fire Marshal will review the project for ADA compliance, and the Code Enforcement Office will also consider ADA issues, such as the comments already made about the requirement for an ADA-compliant restroom.

A poll of the Board resulted in concurrence that no action is possible this evening on the applicant's request for a waiver without some kind of plan for the Board to consider. Mr. Boyce also noted concerns with the application meeting the special exception standards.

ADJOURNMENT

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Thomas Fickett absent). [9:00 p.m.]

Respectfully submitted,

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

Item 1: Consent Agenda

A. Design Dwellings – Subdivision and Site Plan Amendment – Hawkes Farm

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 Town Planner may approve;
2. That all conditions of approval from the original Hawkes Farm Condominium Subdivision/ Major Site Plan shall remain fully in effect;
3. That these conditions of approval and the Final Plans 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 any building permits for any of the lots within the subdivision.