



Town of Gorham
August 2, 2010
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
LAUREN CARRIER
THOMAS FICKETT
GEORGE FOX
CHRISTOPHER HICKEY
ANDREW MCCULLOUGH

Members Absent:

THOMAS HUGHES

Staff Present:

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

Edward Zelmanow, Chairman, called the meeting to order at 7:00 p.m. and read the 4-item Agenda. The Clerk called the roll, noting that Thomas Hughes was absent.

APPROVAL OF THE JULY 12, 2010 MINUTES

Thomas Fickett MOVED and Christopher Hickey SECONDED a motion to approve the minutes of July 12, 2010 as written and distributed. Motion CARRIED, 5 ayes (Lauren Carrier abstaining as not having been present at the July 12, 2010 meeting, Thomas Hughes absent). [7:03 p.m.]

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Zelmanow reported that the Board’s Ordinance Review Committee met on July 20, 2010, at which time Andrew McCullough was appointed as chairman. Mr. McCullough noted that of the 4 items on the committee’s agenda, two items not discussed at the July 20 meeting were wind power ordinance and the keeping of farm animals, which will be discussed at a subsequent meeting. Mr. Poirier advised that the Town Council’s Ordinance Committee will meet on Tuesday morning, August 3, at which time he will update the Committee on what the Planning Board has been discussing in relation to the ordinance amendments under review.
- B. Streets and Ways Sub-Committee** – In the absence of Mr. Hughes, Chairman of this Sub-committee, Mr. Zelmanow reported that this committee has not met in the last month.
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ADMINISTRATIVE REVIEW REPORT

Mr. Poirier reported that there are currently three active projects going through Administrative Review: Champagne’s Energy, a proposal to locate a propane storage delivery facility at 630 Main Street – the applicant has just resubmitted plans which have been distributed to staff for review. Jeffrey Sanborn is proposing to convert just under 6,000 square feet of existing barns at 247 Wescott Road and 187 Wescott Road to two storage buildings; the abutter notification period on this application expired today, and staff comments will be forwarded to the applicant for minor changes to the plan. Sappi’s Mallison Street recreation plan, required by their FERC licensing, is an administrative review of a proposed 8 space parking lot and gravel pedestrian access to the Presumpscot River for canoe and kayak portage around the Mallison Street Dam. The project is in the Shoreland area and requires a determination from the Planning Board, so the project will go from Administrative Review to review by the Planning Board. Staff will be looking to set up a Planning Board site walk for this project within the next two weeks.

Mr. Poirier responded to a query from Mr. Zelmanow that staff is awaiting resubmission on the coffee and wine shop proposal at 80 Main Street, and there is some question whether the applicant will be moving forward. There is also no time frame for the Sawyer Estates project to move forward.

Mr. Zelmanow explained that the consent agenda item is administrative in nature and has been recommended for approval by staff. Therefore, unless a Board member or a member of the public so requests, the item would not be discussed but will be acted upon by the Board.

ITEM 1: CONSENT AGENDA - Subdivision Amendment, Wayne Wright, Infinity Development Group LLC is requesting a revocation of the approved Condominiums of Barstow Highlands at 156 Barstow Road. Zoned Suburban Residential (M87/L22)

There being no one from the Board or the public wishing to remove the item from the Consent Agenda,

Christopher Hickey MOVED and Lauren Carrier SECONDED a motion to approve the item on the Consent Agenda. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:15 p.m.]

ITEM 2: FINAL REVIEW - Subdivision Application, Gilbert Homes, Inc. is requesting final subdivision approval for Stonefield Phase. III, a 12-lot subdivision on 30+/- acres off Harding Bridge Road. Zoned Rural (M50/L6):

Mr. Poirier explained that the applicant is seeking final approval of Phase III of the Stonefield subdivision, with preliminary approval having been granted on December 7, 2009. He said that the new Board members, who were not part of the preliminary approval, should state for the record that they have reviewed the minutes and record provided and feel that they are prepared to participate fairly and impartially in the final review of the project. Mr. Poirier said that staff has completed review notes that detail items needed to be addressed by the applicant, with the easiest way being to go through the staff notes page by page with any additions to be added by the Board.

Mr. Zelmanow asked the 4 new Board members if they have reviewed the previous Planning Board meetings and documents regarding this application, and if they have familiarized themselves with this application and are prepared to participate fully in tonight's review. Ms. Carrier, Mr. Fox, Mr. Hickey, and Mr. McCullough all affirmed that they feel prepared to participate fully in tonight's review.

William Thompson, BH2M Engineers, project manager for Gilbert Homes, gave a brief overview of the project, noting that preliminary approval was received from the Board on December 7, 2009, and the DEP has been provided with the design and applications for an Amended Site Location permit. The DEP has notified Mr. Thompson that the permit should be received within the next week or two, so conditional approval is being requested based on receipt of that permit.

Mr. Thompson said that when preliminary approval was received 2009, there was a different stormwater design, consisting of two vegetated soil filters; however, DEP amended the stormwater regulations so that the collection areas for the two filters were too large and DEP has determined that the filters will therefore not function well. The plan has been revised to build a detention treatment pond that will accommodate both these 12 lots and Phase IV of the subdivision. Stormwater will come down the roadway through a series of catch basins and pipes into the pond and a gravel access pond will be built to get to the pond. In addition, there will be wooded vegetated buffers which will be deed restricted and nothing will be permitted in the buffers except for the cutting of dead or diseased trees. The buffers cannot be modified to permit ATVs or

trails through them and will provide privacy for the abutters who expressed their concerns during the sitewalk on July 28, 2010.

Mr. Thompson addressed some items in the Staff Notes such as taking Note 23 off the plans, correcting the Ichabod Lane detail, adding the conditions of approval to Sheet 1 of the Plan, as currently required, the DEP permit number will be included in Note 38, the offer of cession will be reformatted, and no development is proposed on the 22 foot gravel access road. Easement deeds will be provided for the stormwater pond and the access into it. Mr. Thompson told Mr. Zelmanow that it is not proposed that the gravel road be gated. Mr. Thompson said that the Homeowners' Documents will be prepared as required. The stormwater maintenance plan is included in the stormwater report. Mr. Thomson said that the Portland Water District will be provided with the final plan for review. Mr. Poirier said that usually the Portland Water District reviews the plan before approval. Mr. Thompson said that a 3-foot sump will be added for all catch basins to allow for increased settlement of solids and solids storage.

Mr. Zelmanow noted that there appear to be three things which need to be provided before final approval: the DEP Site Location permit, the homeowners' association documents and easements deeds for review, and a statement from the Portland Water District.

Mr. Zelmanow asked Mr. Thompson who is responsible for the installation of appropriate water pressure booster pumps noted in Note 26 as required by the Portland Water District; Mr. Thompson replied that the builder shall be responsible for that installation and Note 26 will be changed to reflect that. Mr. Zelmanow noted that the spelling of "Hardings" in Note 39 should be corrected to "Harding."

Mr. Poirier asked Mr. Thompson about leaving some trees for the abutter to the north. Mr. Thompson said he will recommend to the developer that he mark the area needed to build the road and leave as many trees as possible to buffer that property.

PUBLIC COMMENT PERIOD OPENED: Mike Meserve, 134 Harding Bridge Road, asked for further information about the deeded buffer. Mr. Poirier said that DEP requires a deed restriction for the buffer and that it be pinned as well and identified on the ground as a no-disturb buffer unless there are dead or dying trees. Mr. Poirier quoted from Plan Note 35 that "The boundary lines for the stormwater buffer shall be delineated by permanent markers located and set by a State of Maine professional land surveyor prior to construction. Permanent markers shall consist of 3'-0" x 3/8" dia. Reinforcing bars installed with a 9-12" projection above grade. The iron rod shall be fitted with red plastic caps inscribed with the words 'no disturb buffer.' Markers shall be located at all angle points as well as equidistant points at a maximum spacing of 100'." Mr. Thompson provided Mr. Meserve with a copy of the deed restrictions.

PUBLIC COMMENT PERIOD ENDED.

In response to a question from Mr. Fickett about the item being placed on a future Consent Agenda, Mr. Zelmanow said that as yet there are no conditions of approval for the Board to review, and he would recommend that the item be placed on a regularly-scheduled meeting agenda for Planning Board review of the missing items and the conditions of approval.

In response to a comment from Mr. Fox about abutters' concerns about a buffer along the northwest side of the right-of-way of the new road, Mr. Poirier suggested that the area be walked with the Town's engineer and the applicant's engineer to see what trees can be saved and that a condition of approval be added that those trees are to be flagged prior to construction. Mr. Thompson said that prior to construction, the area absolutely needed for construction will be laid out, meet with the homeowners to determine what can be saved, an effort will be made to delineate the strip that will have a potential of being saved.

ITEM 3: PUBLIC HEARING - Amendments to Gorham Land Use and Development Code relating to Dead End Streets.
CHAPTER II-GENERAL STANDARDS OF PERFORMANCE, SECTION V-MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS, F. STREET DESIGN STANDARDS – PUBLIC WAYS, 4) Dead End Streets and Streets Providing Sole Vehicular Access, b.

The Clerk of the Board read the language which had been crafted during the Board’s workshop meeting preceding this evening’s regular meeting:

“Dead end streets, whether public or private, except for those built to an industrial, commercial, or service street standard that serves as the sole vehicular access, shall not exceed in length a cumulative distance of fifteen hundred (1500) feet, as measured along the proposed streets’ centerlines to the furthest centerline point of a turning circle or loop road or the terminus of the hammerhead.

The Planning Board may extend the 1,500’ maximum dead end length requirement to a maximum cumulative length of 2,500’ if it finds that the proposed street satisfies the following criteria and is the best road design for the site:

- 1) All Dwelling units served by the proposed street are sprinkled per the Town of Gorham’s Sprinkler System Ordinance. An extension to an existing dead end street requires that only those dwelling units served by said extension are required to be sprinkled per the Town of Gorham’s Sprinkler System Ordinance; and
- 2) Road connections are not required per Chapter II, Section V, C. Access to Adjoining Land, 1)-4).”

PUBLIC HEARING OPENED: None offered.
PUBLIC HEARING ENDED

Lauren Carrier MOVED and Thomas Fickett SECONDED a motion to recommend adoption by the Town Council of the proposed ordinance amendment. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:44 p.m.]

ITEM 4: PUBLIC HEARING
Amendments to Gorham Land Use and Development Code relating to Shoreland Zoning.
CHAPTER I: ZONING REGULATIONS, SECTION IV-BOARD OF APPEALS, D. APPEAL PROCEDURE, 13) and SECTION V-DEFINITIONS; CHAPTER II –GENERAL STANDARDS OF PERFORMANCE, SECTION I- ENVIRONMENTAL; E. SHORELAND AREA PROTECTION, 6) Non Conformance within the Shoreland Overlay District, c); 9) Land Use Performance Standards; a) Minimum Lot Standards, (4); d) Roads and Driveways, (7) and (7)(a)

Mr. Poirier explained that these changes to the Shoreland Zoning ordinance are changes required by the State of Maine Department of Environmental Protection upon adoption of the Town of Gorham’s February 2, 2010 Shoreland Zoning ordinance amendment. Conditional approval was granted by the DEP provided these changes under consideration this evening are made in order to be fully compliant with state statute. Mr. Poirier explained that technically these changes have already been imposed by the state and need to be incorporated into the Town’s ordinance language. If the changes are not incorporated into the Town’s

ordinance, enforcement by the Code Enforcement Officer would require him to use both the Town's ordinance and the state's changes as separate documents.

The changes mandated by the DEP are as follows:

Proposed additions to the Code are underlined; proposed deletions are ~~struck through~~.

“CHAPTER 1 – ZONING REGULATIONS – SECTION IV – BOARD OF APPEALS – D. APPEAL PROCEDURE

D. APPEAL PROCEDURE

- 14) In the case of variance applications within a shoreland area, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

CHAPTER I, SECTION IV - DEFINITIONS

<u>Dwelling Unit</u>	<u>In shoreland areas, this term shall mean a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rental. Recreational vehicles are not dwelling units.</u>
<u>Foundation</u>	<u>The supporting structure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.</u>
<u>Height of Structure</u>	<u>In shoreland areas, the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.</u>

CHAPTER II – GENERAL STANDARDS OF PERFORMANCE – SECTION I – ENVIRONMENTAL – E. SHORELAND AREA PROTECTION

SHORELAND AREA PROTECTION

- 6) Non-conformance Within the Shoreland Overlay District
- c) Non-conforming Lots within a Shoreland Area
- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions

of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above-referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) Contiguous Lots – Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

(b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

- 9) Land Use Performance Standards - All land use activities within the Shoreland Overlay District shall conform to the following performance standards, if applicable. When there is any conflict between these performance standards and the other standards of this Land Use and Development Code, the more restrictive standards shall control.

- a) Minimum Lot Standards

(4) In shoreland areas, if more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

d) Roads and Driveways - The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

(7) Where underground storm water drainage is not required, ditch relief (crossing drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow ~~in the road or ditches~~ gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Road Grade (percent) Spacing (feet)

PUBLIC HEARING OPENED: None offered.
PUBLIC HEARING ENDED

Thomas Fickett MOVED and Christopher Hickey SECONDED a motion to recommend adoption by the Town Council of the proposed ordinance amendment. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:45 p.m.]

OTHER BUSINESS – None

ADJOURNMENT

Thomas Fickett MOVED and Lauren Carrier SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Thomas Hughes absent). [7:46 p.m.]

Respectfully submitted,

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