



**Town of Gorham  
July 11, 2011  
PLANNING BOARD MINUTES**

LOCATION: Burleigh H. Loveitt Council Chambers, 75 South Street, Gorham, Maine

**Members Present:**

**EDWARD ZELMANOW, Chairman  
CHRISTOPHER HICKEY, Vice Chairman  
THOMAS FICKETT  
GEORGE FOX  
ANDREW MCCULLOUGH  
COREY THERIAULT**

**Staff Present:**

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

Edward Zelmanow, Chairman, called the meeting to order at 7:02 p.m. The Clerk called the roll, noting that all members were present.

**APPROVAL OF THE JUNE 6, 2011 MINUTES**

**George Fox MOVED and Corey Theriault SECONDED a motion to approve the minutes of June 6, 2011 as written and distributed. Motion CARRIED, 5 ayes (Thomas Fickett abstaining as not having been absent for the June 6, 2011 meeting). [7:03 p.m.]**

**COMMITTEE REPORTS**

- A. Ordinance Review Committee - No report.**
- B. Streets and Ways Sub-Committee – No report.**

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**CHAIRMAN'S REPORT** – Mr. Zelmanow noted that advertisement has been made of the vacancy on the Planning Board, as well as other available volunteer positions. He said that anyone interested in applying for any position should contact the Clerk's office for further information.

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**ADMINISTRATIVE REVIEW REPORT** – No report.

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**ITEM 1 PUBLIC HEARING - Site Plan Amendment** - Goodwill Industries, Northern New England, proposal to convert 5,000 sq.ft. of warehouse space to wholesale space with construction of a drive-up aisle and canopy on 14.78 acres, located at 34 Hutcherson Drive in the Gorham Industrial Subdivision on Map 12, Lot 17.005, zoned Industrial.

Thomas Poirier, Town Planner, explained that the project is a site plan amendment and has been advertised as a public hearing. The proposal has not had a site walk, and the Board may wish to decide what items should be staked out for a site walk. Mr. Poirier said that staff has also noted review comments on the project that the Board may wish to address.

Curtis Neufield of Sitelines appeared on behalf of the applicant, along with Mike Sweeney, project manager. Mr. Neufield said that some revisions to the plans have been made, and with the Board's concurrence, passed out copies of reduced plans of the current plan. Essentially the project is the same, with a 5,000 square foot wholesale facility inside the existing warehouse space, accessed by a one-way 20-foot wide drive aisle, with a canopy to serve the attendant drop-off center. There will also be a lobby entrance constructed. Parking spaces have been adjusted within the drop-off area, with the resultant loss of one space. There will be new lighting for that parking. The canopy will be anchored to the wall, and both doors will be recessed four feet. Circulation for the drive aisle will be one way, counterclockwise. Mr. Neufield assured the Board that a tractor trailer truck can access the site from both sides.

Mr. Zelmanow commented that the note regarding the canopy should be moved on the revised plan. Mr. Neufield assured Mr. Zelmanow that parked vehicles near the drop-off will be able to exit their parking spots; he will provide a detail showing how many cars could stack in that area. Mr. Hickey commended the applicant for the changes made to the plan, saying that parking at grade at the drop-off location is a good idea.

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

**Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to waive the requirement for a site walk for this project. Motion CARRIED, 6 ayes. [7:25 p.m.]**

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**ITEM 2 SUBDIVISION REVIEW - Subdivision Amendment** – The Crossing at Tannery Brook, LLC, proposal to increase the number of lots from the approved 29 lots of “The Crossing” Subdivision to 36 lots within the previously approved roads and drainage system layout on 21.11 acres, located off Gray Road, Map 30, Lot 18, zoned Urban Residential.

Mr. Poirier explained that the project was previously approved in 2007 for 29 lots and this amendment is to increase the number of lots to 36. He noted that a number of the Board members were not on the Board at the time the project was approved. Mr. Poirier said that staff has prepared review comments that the Board may wish to address.

Mike Roy, SGC Engineering, appeared on behalf of the applicant and introduced Mike Ferrante and Ginny Fletcher representing the applicant, and the applicant's attorney, Nate Huckel-Bauer. Mr. Roy said that approval was received on a 29-lot subdivision in November of 2007. At that same time, they received a NRPA Tier I permit on the wetlands filling, as well as approvals from DOT and the Portland Water District. Construction was started in 2008 on the project; however construction was put on hold due to the economics at the time. In order to improve the economics of the project, it has been reconfigured to increase the density to 36 lots. As part of the realignment of the lots, very little of the engineering infrastructure was changed. The only changes to the infrastructure are to the wastewater pump station and a slight increase to the stormwater wet ponds volume to accommodate the increased density. The water mains and sewer sizes and locations, and storm drains all remain the same. There is no further wetlands filling. DEP's view is that construction started in 2008 and the current DEP permit is still valid, and only a minor revision application needs to be submitted, which can be done after the project has received Town approval. A meeting was held with the Portland Water District in April, before the amendment application was submitted; PWD's view is that construction had not started in 2008, so the applicant must upgrade the pump station to PWD's most current standards, as their permit approval has lapsed. The plans that have been submitted have upgraded the pump station according to PWD's standards, and they are still waiting to hear back from PWD.

Mr. Roy said that they are requesting both preliminary and final approval at this evening's meeting.

Mr. Roy told Mr. Theriault that the DEP permit is for 5 years and has not expired yet, and the amount of wetland fill does not change. Mr. Theriault also confirmed that the roads themselves have not changed.

Mr. Poirier said that the Town Attorney's comments should be addressed in the next submission. Mr. Poirier said the entire submission will have to be reviewed again by each staff member who had comments, in order to make sure that those comments have been adequately addressed. Mr. Zelmanow noted that there is not sufficient information for the Board to give final approval at this time. Mr. Poirier said that there needs to be a plan note dealing with the Town's Stormwater Ordinance, Chapter 2, Post Construction Stormwater Management, and the homeowners' documents now have to refer to that note, as well as the certification the homeowners have to submit annually to the Town.

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

Mr. Zelmanow said that criteria for preliminary plan review is set out in Chapter III, Section III of the Code, and the Board can grant preliminary approval provided the applicant meets and addresses the comments provided for each criteria. Mr. Poirier said that when the application is before the Board for final approval, the Board will have the opportunity to review the preliminary criteria and then grant final approval. In response to Mr. Hickey, Mr. Zelmanow explained that the Board can waive the procedures leading up to final approval when the Board is going to grant both preliminary and final approval on the same night. Mr. Poirier said that the policy of granting preliminary approval began some years ago to give applicants the opportunity to address any outstanding issues before coming back for final approval. Mr. Zelmanow said it lets an applicant know he is on the right track.

**Christopher Hickey MOVED and Andrew McCullough SECONDED a motion to grant preliminary approval to The Crossing at Tannery Brook, LLC, provided that the applicant satisfies all of the review comments and requirements contained in the staff notes. Motion CARRIED, 6 ayes. [7:50 p.m.]**

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**ITEM 3 PRE-APPLICATION DISCUSSION - Site Plan Amendment – Gorham House**  
Partnership proposal to construct a 2,400 square foot one-story building addition and 20 space parking expansion, located at 50 New Portland Road, M100, Lots 65.1, 72.1, 73.1 and 78, zoned Urban Residential.

Mr. Poirier explained that this is a site plan amendment and a pre-application discussion between the Board and the applicant. Mr. Poirier said that ownership questions are being sorted out, so that information will be provided as to who the owner is and who the applicant is, and "Gorham House Partnership" as the applicant may change. Staff has identified some topics that the Board may wish to discuss with the applicant.

Rachel Sunnell, Gawron Turgeon Architects, appeared on behalf of Gorham House, who is proposing to build a 2,400 square foot addition, provide some expansion of the existing parking with additional landscaping and lighting for the parking lot. Ms. Sunnell said that National Healthcare owns the property, and Gorham House is now under Continuum Healthcare, who runs the facility. Ms. Sunnell pointed out the proposed addition, noting that the center curb cut on New Portland Road will be eliminated, and the existing parking will be connected with the existing driveway on the far side of the lot. Twenty to

twenty-three additional parking spaces are being proposed. The addition, located on the skilled nursing wing, will have a physical therapy room and 6 beds which represent double rooms being separated into single rooms and are not new rooms. It is understood that additional landscaping will be required along New Portland Road which meet existing setbacks. The gazebo will be relocated, and connectivity will be provided within the property to connect sidewalks and entrances, as well as to the existing sidewalk on New Portland Road. The building to be demolished is what is known as the “Little House.” The parking lot lighting will meet “dark sky” requirements.

Mr. Hickey and Mr. Poirier discussed the current Code requirement that hospital and nursing homes require one parking space for each 500 square feet or major fraction thereof of floor area exclusive of basements. Ms. Sunnell said that the current number of parking spaces is 101. Mr. Poirier said that the Board will review what is front of them now, that with the addition of a 2,400 square foot building, the proposed 20 additional spaces are more conforming and sufficient. Ms. Sunnell said that additional impervious area will be created, so they will provide information on how the stormwater will be dealt with. Mr. Theriault asked for calculations showing that downstream existing catch basins can in fact handle what the additional catch basins will produce, as well as calculations on the one catch basin in the parking area. Mr. Theriault also brought up the question of the safety of traffic movement at the far left and right sides of the proposed parking area.

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

Mr. Zelmanow noted that a site walk is required but said that normally one would not be scheduled until a formal application has been received.

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**ITEM 4      PRE-APPLICATION DISCUSSION -Site Plan and Subdivision Amendment –**  
Gorham Village Green Condominium Association and Gorham Village Green, LLC  
request for approval to amend the approved subdivision plan to remove the “over 55” age  
restriction and to change the form of ownership from condominium to cluster subdivision,  
located off Libby Avenue, Map 109, Lots 501-510, zoned Office Residential.

Mr. Poirier explained that the applicant is before the Board this evening for both a site plan amendment, as well as a subdivision amendment. This the first instance that Mr. Poirier is aware of where an applicant is requesting that an approved condominium project now be approved under the clustered residential standards in the ordinance. Staff has reviewed clustered provisions, and clustered subdivisions are allowed in the OR district. Quoting from the Code, Mr. Poirier read that “The Planning Board may approve requests for cluster residential developments if it finds that the proposal conforms to the criteria listed below and is the best development form for the site.” Should the Board permit this change, it would be a shift in policy and it is possible that other “house-o-minium” developments would come forward with similar amendment requests.

In response to a query from Mr. Hickey, Mr. Zelmanow quoted from Chapter II, Section IV, of the Code that “A Cluster Residential Development is a form of development which allows a developer to create smaller lots than required by the applicable zoning district regulations in return for setting aside a portion of the tract as permanent open space owned and maintained jointly by the individual lot owners. The net residential density of the site shall remain the same as if the site were developed as a conventional subdivision.” Mr. Zelmanow emphasized that the net residential density remains the same, whether it is a conventional subdivision or a clustered subdivision.

Les Berry, BH2M, appeared as the engineer for Gorham Village Green, as Managing Partner for Gorham Village Green, LLC, developer of the project, and as president of the Gorham Village Green Condominium Association. This is presented as a joint application because being condominiums, the development is still under the direction of the developer until it reaches 75% of the lots sold. Six lots are sold now, with another under contract, so it will be at 70%. However, Mr. Berry said that the condominium association has been activated to run it as a condominium. He said that they are asking for two things: to remove the “over 55” age restriction and a change of ownership form. No work is proposed to be done at all and nothing will change physically on the face of the earth.

Starting with the over 55 issue, Mr. Berry said that in 2006 it was believed that there would be a demand for this type of housing restriction. “Over 55” means only that 80% of the people have to be over 55, 20% can be under age 55, but the “killer” restriction is that no children can live in the condo project. The age restriction was a condition of approval and was on the plans, so they have to come back before the Board to have it deleted.

Mr. Berry said that the reason to change the form of ownership to cluster is simply a financial reason – by 2008, when the economy began experiencing difficulties, financing condominiums became very difficult, with condominium mortgages being very difficult to sell on a secondary market, simply because of the problems occurring in Florida, California, Nevada and other states with these projects. A local mortgage could be obtained, but a mortgage from a mortgage company sold on the open market would be difficult to finance. At this time each condominium owner owns his home and a 1/10<sup>th</sup> interest in all the condominium land. If the ownership change is approved to cluster, the homeowner would own his home on a lot and a 1/10<sup>th</sup> interest in the open space.

In response to Mr. Zelmanow, Mr. Berry said that Town Common Road is designed to Town standards, 24 feet wide, granite curbing, and actually exceeds Town standards.

Mr. Zelmanow summarized the applicant’s proposals as (1) removal of the “over 55” age restriction, and (2) changing the form from condominium to clustered as the development cannot meet conventional subdivision standards. Mr. Zelmanow said that the cluster criteria looks forward to what can be built, not backward to what has been built, and one of the major issues is that of open space, that in exchange for having smaller lots, permanent open space must be set aside that “. . . shall be accessible to all residents of the project. At a minimum, this use may include such activities as walking picnicking, fishing, swimming, cross country skiing, and other low intensity recreational uses unless otherwise provided for in the Planning Board approval.” Mr. Zelmanow asked where the open space is proposed to be in the current layout of the subdivision and what are the proposed uses of that open space. Mr. Berry said that the center of the cul-de-sac is landscaped with a trail through it, and there is a trail and open space out toward Route 25, toward Community Pharmacy, and currently the center of the cul-de-sac is like a park, open to everyone. Mr. Berry invited the Board to take a site walk at the project.

Mr. Zelmanow responded to a question from Mr. Theriault that there is no set amount of open space required in a cluster subdivision, that a percentage of open space is dictated in the Transfer Development Overlay District but not for a cluster. For a cluster, the open space needs basically to be useable. Mr. Zelmanow said that in the past the Board has not necessarily required a large expanse of open space for a cluster subdivision, but it must be useable.

Mr. Zelmanow suggested that the Board look at the project on a site walk and meet again either in workshop or another pre-application meeting to determine if the open space criteria is met.

Mr. Zelmanow said he understood that the “over 55” age restriction exempted the application from the Middle School impact fee, which has now been repealed by the Council. Mr. Zelmanow said that it will be a question for the Town Attorney to advise that if a restriction that originally had financial benefit to an applicant can now be removed when there is no longer any financial impact. The Town Attorney would need to advise the Board if the restriction can be lifted and what steps need to be taken to do that. In addition, Mr. Zelmanow commented that if the Town Attorney agrees that the restriction can be lifted, he believes that all of the current owners would have to approve that action, as those owners purchased their properties with the understanding that there would be no children living in the development. Mr. Berry said that 80% of the owners would have to approve either of the changes being discussed tonight, and there will not be a vote taken until they return to the Board.

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

Mr. Theriault asked about the shared driveway between Lots 5 and 6 right on the property line; Mr. Berry replied that there is an easement to both parties to the driveway already built. He said one of the houses is his house. Mr. Theriault asked about changes to the impervious calculations as the driveways appear different from the original plan. Mr. Berry confirmed to Mr. Zelmanow that the drives were not built in conformance with the original plan.

Mr. Zelmanow said that the Board needs a sitewalk and the Town Attorney’s opinion on the removal of the restriction. Mr. Poirier said there would be a sitewalk scheduled toward the end of the month, and then the Board should give the applicant guidance on whether they can support this project being a clustered subdivision before the applicant proceeds any further.

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**OTHER BUSINESS                    NONE**

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**ANNOUNCEMENTS                NONE**

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**ADJOURNMENT**

**Thomas Fickett MOVED and Corey Theriault SECONDED a motion to adjourn. Motion CARRIED, 6 ayes. [8:35 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
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