



Town of Gorham
August 22, 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 7:09 p.m. The Clerk called the roll, noting that all members were present.

APPROVAL OF THE AUGUST 1 2011 MINUTES

Thomas Fickett MOVED and Corey Theriault SECONDED a motion to approve the minutes of August 1, 2011. Motion CARRIED, 5 ayes (Andrew McCullough abstaining as not having been present at the August 1, 2011 meeting). [7:10 p.m.]

CHAIRMAN'S REPORT – Mr. Zelmanow commented that the application submission deadline for the Planning Board has passed and hopefully the 7th Board member will be with the Board for the September 12 or October 3 meeting.

Mr. McCullough noted that while he was not present at the August 1, 2011 meeting, he has reviewed the minutes of that meeting, as well as the staff notes, and is prepared to participate fully in this evening's discussion on Item 1.

ITEM 1 **Final Subdivision Review** - Design Dwellings, Inc., proposal for 24 single family lots and one lot for 4 duplexes and to construct 2 roads built to the Town's Urban Access standard on 13.0 acres at 308/312 Main Street, Map 26, Lots 7 and 7.001, located in the Urban Residential zoning district.

Mr. Poirier said that this applicant was before the Board at its August 1, 2011 meeting, when the applicant was granted preliminary approval. The Board decided to hold a second meeting this month to consider final approval of the proposed subdivision. The applicant has submitted legal documents and the Town Attorney's comments on those documents are included in the staff notes. Mr. Poirier noted that the applicant has requested two additional waivers under Chapter II, Street Design Standards, regarding the use of granite curb at radii locations and intersections, and the use of granite curb stones at catch basins. He said that the applicant has submitted a letter for the Board's review from a soils scientist regarding testing protocol around the existing greenhouses.

Mr. Zelmanow asked if there has been any correspondence from the Portland Water District. Mr. Poirier said he does not anticipate any additional review, and a condition of approval, #13, has been added stating

“That the applicant shall present a letter from the Portland Water District approving of the water and sewer main extensions prior to the Planning Board’s endorsement of the final plans.”

Thomas Greer, Pinkham & Greer, appeared on behalf of the applicant and asked for the Board’s approval of the waivers requested on the storm drain system and curbing, which are supported by the Public Works Director. The curbing change is to achieve a more uniform look and will be more durable. He said that the homeowners’ documents will be revised based on the Town Attorney’s review comments. He noted that the duplex units will be under one ownership so condominium documents will not be required.

Mr. Greer asked for changes to Conditions of Approval #6 and #12. With regard to COA #6, “That the applicant will provide the Planning Department with relevant information to show the proposed lot splits for lots 101, 102, 103, and 104 when completed as required and meeting the approvals of the Town Staff and Town Attorney,” Mr. Greer said this information has already been provided to staff and the Town Attorney and approved, so they would like the wording “approvals of the Town Staff and Town Attorney” to be removed from the Condition. They will simply submit to staff that they have followed the approved procedure. Concerning Condition #12, “That prior to the commencement of work, a performance guarantee totaling 125% of the costs to complete the construction will be established with the Town, an escrow fund for field inspections will be established with the Town, and a preconstruction meeting with Town Staff and the Town’s engineer for construction scheduling shall be held,” Mr. Greer said the applicant would like to be able to put in some of the infrastructure during the winter and provide a performance guarantee prior to selling any of the lots, or put up a very small performance guarantee for something like erosion control.

Mr. Zelmanow summarized the 5 pending waiver requests: 3 deal with the storm drain system and 2 deal with curbing. In response to Mr. Zelmanow’s comment about a more decorative lighting fixture, Mr. Greer said they would be happy to provide the “Town & Country” style lighting option in the Central Maine Power lighting catalog instead of the mongoose style, along with the wooden laminated pole style. Mr. Hickey confirmed with Mr. Poirier that the CMP fixtures are Town-approved.

Mr. Greer confirmed that the testing results will be provided to the Town’s staff and engineer once the greenhouses have been removed. A new condition of approval will be drafted to cover this understanding.

Mr. Greer responded to Mr. Theriault’s query that the Public Works Director supports the waivers requested by the applicant. The Board also noted the suggestion of the Public Works Director that the Code should be changed dealing with single-walled polyethylene drainage pipe, as well as the catch basin/manhole entry. Mr. Zelmanow said that staff will include the Public Works Director’s recommendation as an item on the Board’s September meeting agenda for referral to the Board’s ordinance committee to draft appropriate changes to the Code to be presented to the Town Council. There being no issues regarding the waiver requests,

Christopher Hickey MOVED and Andrew McCullough SECONDED a motion to approve the applicant’s waiver requests to the Street Design Standards under Chapter II for Section V.G.5, 2 items in Section V.G.6.f, Section V.G.4.2(1) and Section V.G.5.g. Motion CARRIED, 6 ayes.
[7:30 p.m.]

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

Mr. Poirier addressed the applicant’s requested changes to Conditions of Approval #6 and 12, saying that staff has no concerns with the applicant’s change to Condition #6 because if the lot splits are not done as

proposed, a subdivision amendment would be required. Mr. Greer said that the procedure has been approved but the actual transaction has not been reviewed; they will provide the Board with that data. Condition of Approval #6 is therefore changed to “That the applicant will provide the Planning Department with relevant information to show the proposed lot splits for lots 101, 102, 103, and 104 when completed as required.” However, Mr. Poirier said that Condition #12, dealing with a performance guarantee, is a requirement of the Code and the Board does not have the authority to waive it. He said that even if it were not a condition, the performance guarantee is still required by the Code.

The Board then considered the following Findings of Fact:

CHAPTER III - SUBDIVISION, SECTION III - PRELIMINARY PLAN

C. PRELIMINARY PLAN REVIEW

2) The Planning Board shall include in its review the following general and specific requirements that the development as proposed for approval:

- a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter II.

The proposed subdivision is located within the Town of Gorham’s urbanized area as defined by the Maine Department of Environmental Protection. The subdivision will need to comply with the Town of Gorham’s Stormwater Ordinance, Chapter 2, Post Construction Stormwater Management.

Allen Acres subdivision conforms with the Comprehensive Plan, and with all pertinent State and local codes and ordinances including requirements for development identified under Chapter II.

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

The subdivision will be served by two roads, Carnation Drive and Geranium Drive, which have been designed to meet the Town’s Urban Access standard. One side of Carnation Drive and Geranium Drive will have “No Parking” signs installed per the approved plans. The sidewalks will be constructed with detectable warning areas at all crosswalk locations.

Access to the site is via Main Street (State Route 25). The proposed subdivision will not cause congestion or unsafe conditions with respect to use of the public roads, existing or proposed on or off the site.

- c) Will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

Allen Acres Subdivision will have a clustered mailbox located on the eastern side of Carnation Drive adjacent to lot 24. The fire hydrants within the subdivision will be located meeting the approval of the Gorham Fire Chief. The subdivision will also be served by underground electric, natural gas, public water, and public sewer.

Allen Acres subdivision will not place an unreasonable burden on the ability of the Town to provide municipal services.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.

The applicant has submitted revised plans for review by the Portland Water District. The plans provide for sufficient water supply available for present and future needs.

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.
The applicant has submitted revised plans for review by the Portland Water District. The plans provide for adequate disposal of sewage waste for present and future needs.
 - f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.
The subdivision has received approval from the Maine Department of Environmental Protection as well as meeting Gorham Land Use and Development Code requirements for stormwater on and off the site. The subdivision improvements will not result in undue pollution of air or ground water both on and off the site.
As outlined in Mark J Hampton's August 2, 2011 letter to Tom Greer, once the greenhouses have been removed the applicant will test the existing soil on subdivision lots 23 and 24 for accumulation of pesticides or herbicides. Subdivision note 27 has been added to the plan outlining proposed soil testing requirements.
 - g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
Sheet C1.4, Grading & Erosion Control Plan, outlines the necessary locations for erosion control devices. Sheets C3.1, Grading & Erosion Control Notes & Details, and C3.2, Erosion Control & Drainage Details, provide adequate details for the installation and maintenance of erosion control devices.
 - h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.
Allen Acres Subdivision will not affect the shoreline of any body of water or change the ground water table so that a dangerous or unhealthy condition may result.
 - i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.
The subdivision will alter 2,798 sq. ft. of freshwater wetland, located in a depression near the west property line. The amount of wetland disturbance is limited to the greatest extent practical. The 25 lot subdivision takes into account scenic and natural beauty of the area and does not affect any historic and rare or irreplaceable natural or manmade assets.
- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter VIII. *The Recreational Facilities and Open Space Impact Fee is required to be paid prior to the issuance of a building permit for each lot.*
- 4) The requirements of this paragraph shall apply if an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee.
- a) Land Improvement: The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
 - b) Owners Association: A homeowners' association shall be formed for the perpetual care of the commonly owned recreation land.
Not applicable.

CHAPTER III - SUBDIVISION, SECTION IV –FINAL PLAN

D. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction. *The applicant has made all the Planning Board's requested corrections identified as conditions of Preliminary Approval.*

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval. *The proposal received preliminary approval on August 1, 2011 which is within the 12-month requirement period.*

Mr. Poirier reviewed the new additional conditions of approval from this evening's meeting as follows:

14. That the applicant shall submit soil testing results for Lots 23 and 24 to Town staff and the Town's engineer for review.
15. That the applicant shall submit the revised required legal documents meeting the approval of Town staff and Town Attorney prior to the Planning Board's endorsement of the final plans.

Existing condition of approval #14 now becomes #16 and existing condition #15 is now #17. Mr. Greer confirmed that they are in agreement with the new conditions.

George Fox MOVED and Thomas Fickett SECONDED a motion that the Gorham Planning Board adopts each of the foregoing Findings of Fact and grants final subdivision approval for Design Dwellings, Inc.'s proposal for 24 single family lots, one lot for 4 duplex units and 2 roads built to the Town's Urban Access standard, located on 13.0 acres at 308/312 Main Street, Map 26, Lots 7 and 7.001, zoned Urban Residential, with conditions of approval posted prior to the meeting and as amended by the Planning Board this evening. Motion CARRIED, 6 ayes. [7:46 pm.]

ADJOURNMENT

Thomas Fickett MOVED and Christopher Hickey SECONDED a motion to adjourn. Motion CARRIED, 6 ayes. [7:48 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2011

ITEM 1 SUBDIVISION PLAN, DESIGN DWELLINGS, M26, LOTS 7 AND 7.001

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 prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That the streets shall be properly named and signed with Town-approved street signs. The names of the streets shall be approved by the Police and Fire Chiefs. Street signs shall be installed as soon as the streets are constructed;
5. That the proposed improvements to the Town's stormwater infrastructure shall meet the requirements of the Public Works Director as outlined in his 05-16-2011 memo;
6. That the applicant will provide the Planning Department with relevant information to show the proposed lot splits for lots 101, 102, 103, and 104 when completed as required;
7. That at least one week prior to the date of the pre-construction meeting, a complete set of the final approved plan set will be delivered to the planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Town Planner;
8. That the homeowners' association is responsible for compliance with the Town of Gorham Stormwater Ordinance, Chapter 2 – Post Construction Stormwater Management;
9. That the Code Enforcement Office shall inspect all primary electrical cable or conduit before burial;
10. That per NFPA Fire Prevention Code 1, water mains and hydrants shall be installed and in service before issuance of any building permits;
11. The applicant shall be responsible for recording the approved homeowners' association documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board;
12. That prior to the commencement of work, a performance guarantee totaling 125% of the costs to complete the construction will be established with the Town, an escrow fund for field inspections will be established with the Town, and a preconstruction meeting with Town Staff and the Town's engineer for construction scheduling shall be held;
13. That the applicant shall present a letter from the Portland Water District approving of the water and sewer main extensions prior to the Planning Board's endorsement of the final plans;
14. That the applicant shall submit soil testing results for Lots 23 and 24 to Town staff and the Town's engineer for review;
15. That the applicant shall submit the revised required legal documents meeting the approval of Town staff and Town Attorney prior to the Planning Board's endorsement of the final plans;

16. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
17. That these conditions of approval must be added to the subdivision plan and the subdivision plan 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 mylar copy of the recorded subdivision plan shall be returned to the Town Planner.