



Town of Gorham
April 23, 2012
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
CHRISTOPHER HICKEY, Vice Chairman
GEORGE FOX
MELINDA SHAIN

Staff Present:

THOMAS M. POIRIER,
BARBARA C. SKINNER, Clerk of the Board

Members Absent:

ANDREW MCCULLOUGH
COREY THERIAULT

Edward Zelmanow, Chairman, called the meeting to order at 7:10 p.m. The Clerk called the roll, noting that Andrew McCullough and Corey Theriault were absent.

APPROVAL OF THE APRIL 2, 2012 MINUTES

Christopher Hickey MOVED and George Fox SECONDED a motion to approve the minutes of April 2, 2012 as written and distributed. Motion CARRIED, 4 ayes (Andrew McCullough and Corey Theriault absent).

REORGANIZATION OF THE BOARD

A Introduction of New Member

Mr. Zelmanow welcomed Thomas Hughes back to the Board.

B Election of Officers

The Clerk called for nominations for the position of Chairman.

Thomas Hughes moved and George Fox seconded a motion to nominate Edward Zelmanow for the position of Chairman. There were no further nominations. The nomination approving Edward Zelmanow as Chairman CARRIED, 4 ayes – 1 abstain (Edward Zelmanow), 2 absent (Andrew McCullough and Corey Theriault).

The Chairman called for nominations for the position of Vice Chairman.

George Fox moved and Melinda Shain seconded a motion to nominate Christopher Hickey for the position of Vice Chairman. There were no further nominations. The nomination approving Christopher Hickey as Vice Chairman CARRIED, 4 ayes - 1 abstain (Christopher Hickey), 2 absent (Andrew McCullough and Corey Theriault).

C. Committee Appointments

- | | |
|------------------------------------|--|
| 1. Ordinance Review Committee: | Thomas Hughes, Andrew McCullough, Corey Theriault, Edward Zelmanow |
| 2. Streets and Ways Sub-Committee: | George Fox, Christopher Hickey, Melinda Shain |

Mr. Zelmanow asked that at the first meeting of each committee, a chairperson be elected with that information being provided back to the Board.

Mr. Hughes recused himself from participation in the discussion of this Item as he was not part of the substantive review which has already occurred.

ITEM 1 CONSENT AGENDA - Subdivision/Site Plan Amendment Goodwill Industries of NE request for approval of a Subdivision/Site Plan Amendment for Spiller Park, to expand the existing private non-medical care institution with a 1,709 sq. ft. 3-bedroom ranch home and associated infrastructure, located at 12 Day Road, Map 24, Lot 11.002, in the Suburban Residential zoning district.

Mr. Zelmanow explained the Consent Agenda process, and there being no one on the Board or from the public wishing to take the item off the Consent Agenda,

Christopher Hickey MOVED and George Fox SECONDED a motion to approve the item on the Consent Agenda based on the Findings of Fact and with Conditions of Approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 4 ayes, 1 abstain (Thomas Hughes) and 2 absent (Andrew McCullough and Corey Theriault).

ITEM 2 Pre-Application for Subdivision Review - Risbara Bros. Construction request for approval of Wagner Farms II, a 10-lot subdivision on 3.44 acres in the Development Transfer Overlay (DTO) District, located at 222 Libby Avenue, Map 30 Lot 13, in the Urban Residential zoning district.

Mr. Poirier explained that the applicant is proposing a subdivision under the Development Transfer Overlay provisions of the Land Use and Development Code. It is basically a second phase of the original Wagner Farms Subdivision, located on the parcel of land remaining from that original subdivision approval. Mr. Poirier said that during the Board's review of the original Wagner Farm subdivision, the Board requested a traffic study to evaluate the impact of the subdivision on the Libby Avenue and Main Street intersection. The Board may want a revised traffic study, and, if so, the Board should also have a traffic engineer peer review of the study. Mr. Poirier said that staff has also identified how density calculations should be made on the parcel both under traditional zoning and the Development Transfer Overlay zoning.

Ms. Shain asked if this proposal is a second phase or an amendment to the original subdivision. Mr. Poirier explained that the parcel under consideration now is the original out parcel, so while it is not considered as part of the subdivision, it is considered as the first break and any subdividing of that lot within a 5-year period requires subdivision review. Mr. Poirier said this application should be considered as a stand-alone project. Mr. Hughes said that the applicant is not necessarily bound by the Development Transfer Overlay standards governing the original Wagner Farm subdivision, but the project can be considered as a separate entity with separate issues. Mr. Poirier concurred, noting that the applicant has the choice of proceeding under traditional zoning or the Development Transfer Overlay standards of the Code.

Nancy St. Clair, St. Clair Associates, appeared on behalf of the applicant, and explained that the original owners of this 3.44 acre lot, while initially wanting to stay on the parcel, ultimately decided to sell the property to Risbara Bros. Construction, who has the property under contract. She said that initially this project was proposed as an amendment to the original Wagner Farms subdivision, but should the Board wish, they will treat the application as a stand-alone project. It is now proposed as a 10-lot plan, with the existing house and barn integrated into the project, based on the Development Transfer Overlay zoning. Open space is proposed to be adjacent to that of Wagner Farms.

Ms. St. Clair said that the traffic study done initially for Wagner Farms to look at signal warrants and timing of delays at the intersection of Route 25 and Libby Avenue showed that signal warrants would not be required for that intersection. She said that a copy of the traffic report can be provided to staff and the Board. They would like to start with that report before going on to any further detailed signal warrant analysis. Ms. St. Clair said that they have had Bill Bray, the consultant who performed their original traffic

study, take a look at the intersection location being proposed for this plan, and he feels there is available site distance in that area.

Ms. St. Clair asked for clarification on how to define the calculation of bonus units, is it based on net area per dwelling unit or net area per lot size. Mr. Poirier said that if the developer chooses to proceed under the Development Overlay district, the calculation methodology is very clear in the Code. After considerable discussion among the Board members and Town Planner with Ms. St. Clair, it was agreed that the Town Attorney will be asked to provide an interpretation of the calculation process for the Board.

The Board discussed having a clustered mail box, the use of the open space in Wagner Farms, and the extension of sidewalks along Libby Avenue. Ms. Shain asked if a roundabout carries a different traffic warrant. Ms. St. Clair said she will relay that question to the traffic engineer. Mr. Hughes said it would be logical to start with the original traffic study and build on it for this project. Ms. St. Clair said that sewer and water will be extended to this development, with a neighbor having expressed interest in tying into those utilities. Mr. Risbara told the Board that the rock pile will be gone when Wagner Farms is completed.

PUBLIC COMMENT PERIOD OPENED: Rodney Anderson, 190 Libby Avenue, expressed concern about any blasting that might be required, saying that blasting for Wagner Farms had a very negative impact on his property and pool. Mr. Risbara said he anticipates some blasting will be needed where the utilities ended in Libby Avenue in ledge, there are some 270 feet where work will be needed in Libby Avenue, and does not believe much that much blasting will be needed once they get in on to the property. Mr. Risbara said that the DEP site location of development permit for Wagner Farms will need to be amended.
PUBLIC COMMENT PERIOD ENDED.

The Board will hold a sitewalk once the application has been submitted.

ITEM 3 Pre-Application for Subdivision Amendment Review - Travis Caruso request for approval of an amendment to Fort Hill Estates Subdivision to revise the size of Lot 1, located at 53 Phinney Street, Map 43, Lot 1, Rural zoning district, from 4.63 acres to 1.38 acres with remaining land being joined to land owned by C & C Family, LLC (Map 43/Lot 21).

Mr. Poirier said that the applicant has submitted a full subdivision application amendment, but due to the timing of the submittal, the project could not be on for a full review so it is on the agenda as a pre-application. Staff has received multiple abutter comments regarding this proposal, so staff thought it would be a good idea to put this on for Planning Board review to get the abutter comments out. Most of the abutter comments revolve around a deed restriction that was placed on the subdivision by the owner of the subdivision for the benefit of the lot owners. Mr. Poirier noted that staff has received a letter dated March 26, 2012, from John Elmen, Esquire, which includes an affidavit from the original subdivider of the parcel regarding his intentions concerning the subdivision; a time line of events submitted by the applicant; a letter dated April 17, 2012, from Ronald Miller, an abutter; and a letter dated April 19, 2012, from Ronald Ward, Esquire, the applicant's attorney. An email was also received from Bernard Broder on March 31, 2012, but Mr. Broder is present this evening and will deliver his comments in person. Additionally, an abutter has today provided copies of minutes from a Planning Board meeting of September, 2004.

Staff has asked the Town Attorney to review the deed restriction; she has advised staff that the deed restriction is not something that the Town can enforce because it is not a requirement of the Code and it was not placed as a restriction as part of an approval by the Planning Board. While the Planning Board cannot enforce that deed restriction, the lot owners can in a civil action.

Mr. Zelmanow reminded the Board that its review of the application will only be focused on whether the proposed amendment will be permitted by the Land Use and Development Code. Any issues regarding the

enforcement of any deed restrictions that were not created by the Town's Code or the Planning Board approval is outside the Board's authority, and enforcement of any such deed restrictions has to be done by the other parcel owners in a civil matter in the court system.

Andy Morrell, BH2M Engineers, representing Travis and Ann Caruso, described the original 10-lot subdivision as having been developed by AWI Engineering in 1974, amended in May of 1980 for a transfer of land between lots 9 and 10, and amended in September of 1981 where lot 9 was split into 3 lots, adding 2 additional lots. Mr. Morrell explained that Travis Caruso resides on lot 3 and owns lot 1. What is being proposed is to split lot 1 into two parcels, with a 60,000 square foot lot around the existing house with frontage and a driveway off Phinney Street, and the remaining land of lot 1, parcel A, would then be combined with land to the north owned by the applicant's family. Frontage for that lot would be off the Phinney Street Extension. The reason for the application is to create a single family house lot with a driveway off the Phinney Street Extension. Lot 1 of the original subdivision is being reduced from 5 acres to 1.4 acres in size, with the remaining land be given to an abutter to the back. Ultimately it is intended to build a single family house on that family land in the back. Parcel A would have a driveway on it.

Mr. Hughes commented that a great deal of time and effort will be put into something that may be denied by the courts. Ms. Shain questioned whether right, title and interest has been established.

PUBLIC COMMENT PERIOD OPENED: Robert Weed, 28 Phinney Street, read the following letter into the record:

"April 23, 2012
Gorham Planning Board

People have bought and built homes in this neighborhood with the understanding that their property is protected through the covenants in their own deeds and or others.

People have respected the integrity of the deeds as well as the rights of their neighbors. We now have a situation where one party wishes to change that. The applicant is proposing to subdivide a lot in which the deed clearly states that such action is not permissible. I was told initially by Mrs. Caruso all they wished to do was to put a driveway across Lot 1 to serve one house, now the applicant wants to subdivide and attach their land to a 170 acre parcel. Depending on the outcome of the Phinney Street Extension debate, the act of subdividing this lot would allow for large scale development of the 170 acre parcel, a parcel that the applicant already has access to via 400+ feet of frontage on Fort Hill Road. I inquired to Mrs. Caruso as to why they did not access the property from Fort Hill Road, she told me that she thought at some point her in-laws were going to develop some of the parcel and use that access.

I am concerned as to what this second point of access may lead to. This is the second parcel in Fort Hill Estates that the applicant has purchased so therefore knew about any restrictions on the property. If the proposed amendment is granted, the only recourse neighbors would have is to take legal action. Action that is going to be costly to some people who already feel they paid for this security when they purchased their property. I don't feel that it is necessary, reasonable or just to infringe on the rights of neighbors for simple convenience for the applicant.

Sincerely, Robert Weed"

Bernard Broder, 49 Phinney Street, questioned the objective of this application. He also said that he believes that the process of taking Phinney Street Extension by the Town by eminent domain was a flawed process and raised various questions about its legality. Mr. Zelmanow said that legal issues do not impact the Board's ability to approve splitting the lot, that the nature and character of the Phinney Street Extension question does not impact on what the Board will review, that the Board is not looking at the applicant's ability to run a driveway into it, and the Board is only looking at the proposed Lot 1 split.

Philip Shearman, 1 Blockhouse Run, said that the proposal is an attempt by C&C Family to separate Lot 1 in order to provide access to a large piece of property with extensive frontage on Route 114. Mr. Shearman said past actions by C&C Family has negatively impacted the neighborhood, expressed concern about opening a future access and possible development, and asked the Board to deny the applicant's request.

Mr. Hickey asked Mr. Poirier if the Town officially discontinued Rust Road. Mr. Poirier said he believes the road was abandoned and the Town maintains a right of way across it, but he would like to get the Town Attorney's opinion on the question. Mr. Zelmanow asked Mr. Poirier if C&C Family land could be developed into a subdivision if the Board were to deny the application to split Lot 1. Mr. Poirier said they could, if the necessary road frontage was available.

Hans Hansen said this application affects his family and asked what the intent of the developer is, said that the road has not been taken properly and asked for details of what will be proposed.
PUBLIC COMMENT PERIOD ENDED. (8:30 p.m.)

Mr. Zelmanow asked whether the Board would be permitted to put a restriction on Parcel A limiting it to a driveway. A site walk will be scheduled to show the division line and the centerline of the driveway.

Ten Minute Break to 8:45

Mr. Hughes recused himself from participation in the discussion of this Item as he was not part of the substantive review which has already occurred.

ITEM 4 Preliminary & Final Subdivision Review - Paul Gore request for approval of Bartlett Woods Subdivision, a 5-lot subdivision on Alberta Way off Bartlett Road, located on Map 12, Lots 7 and 10 in the Rural zoning district.

Mr. Poirier said that this application was last before the Board on April 2, 2012, at which time the Board discussed with the applicant the location of the septic system in the utility right of way, the exemption of the requirement to supply public water and the ability of the Board to waive procedures leading up to final subdivision approval. The applicant has submitted an application for both preliminary and final approval at one meeting. The Town Attorney has looked at what the Board needs to consider for the exemption of providing public water, and has provided her legal opinion in a letter dated April 18, 2012, included in the Board's packet. Mr. Poirier also said that at the April 2, 2012, meeting he had asked for information from the Portland Water District regarding whether they would be amenable to allowing a water main to "meander" to the parcel. Since then, the District has said they are not in favor of allowing such a meandering water main.

Mr. Zelmanow quoted from the Town Attorney's April 18, 2012 letter, on the issue of the formula for calculating the cost of providing public water vs. private water: "That formula does not include independent factors, such as those presented by the applicant in this case. The applicant does have the option of requesting a waiver of the public water requirements from the Town Council under the provisions of Chapter II, Section X.G. The Town Council reviews this type of waiver request under the broader test of 'undue hardship' and may review factors beyond those that may be considered by the Planning Board."

Mr. Hickey disclosed that he has worked with Mike Cooper, an attorney with Cooper & Bull, and recognizes that the abutters are represented by an attorney with that firm. However, Mr. Hickey said that he does not believe his past association with Mr. Cooper will impact his ability to be impartial in this matter.

None of the Board members had any issues with Mr. Hickey remaining on the dais during the discussion on this item.

Andy Morrell, BH2M Engineers, appeared on behalf of the applicant and said that the Town Attorney's letter of April 18, 2012 was forwarded to Thomas Jewell, of Jewell & Boutin, attorney for the applicant. Mr. Jewell's opinion is that the easement across the property of Donald and Eileen Mayo falls 30 feet short of the back property line owned by the applicant. Therefore, there are only two options for the extension of public water: 1) meander the water main around Lots 1 and 2 of the proposed subdivision, which the Water District has said it does not favor, or 2) extend public water along New Portland Road to Bartlett Road and to the site. Mr. Morrell said that the cost of extending the public water would be more costly providing private water.

Mr. Poirier said that Mr. Jewell's letter could be forwarded to the Town Attorney with a request that Ms. Burns review the additional information and determine if she agrees with it; if she does agree, the applicant could resubmit the missing items and move forward for preliminary and final approval. If she does not agree with Mr. Jewell's letter, the Board would have to vote on public water and private water costs, and then the applicant would have to decide whether to ask for a hardship waiver from the Town Council. Mr. Morrell agreed said he believes having the Town Attorney review the packet of information from Mr. Jewell would be a good solution. Mr. Fox asked if it would be worthwhile revisiting the issue of a "meandering" water line in the light of a valid right of way not reaching the property. Mr. Poirier said he could ask the District about that; however, one of the District's concerns about a water main located on private property is the ability to maintain it, especially in light of the grades to access the water main.

Mr. Zelmanow referred to the outstanding issues concerning the subdivision documents expressed by the Town Attorney that still remain to be addressed by the applicant, as well as items shown as still outstanding by the Town Planner.

PUBLIC COMMENT PERIOD OPENED: Diana Libby, abutter on Bartlett Road, spoke of her concerns about the Alberta Way culvert directing drainage on to her property with members of the Board and the applicant's engineer. Ms. Libby was told that, once this development is completed, if she can scientifically show this project has increased the water runoff on to her property, then it becomes an enforcement issue for the Code Enforcement Office.

Molly Sinclair Bull, attorney for Mr. and Mrs. Donald Mayo, abutters to the property, advised the Board that she will be in contact with Mr. Jewell and they are in good communication with the applicant about the next step on the project.

PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow summarized that the Town Attorney will look at the information submitted by the applicant's attorney and provide the Board with her opinion, and the applicant will address the other outstanding issues in order to get this item on the May agenda.

Mr. Hughes recused himself from participation in the discussion of this Item as he was not been part of the substantive review which has already occurred.

ITEM 5 Private Way Review - Nathaniel Hurteau request for approval of Tranquil Drive, a 433 foot private way located off 439 Libby Avenue, Map 47, Lot 4, Suburban Residential zoning district.

Mr. Poirier explained that this item was last before the Board at the April 2, 2012 meeting, with issues discussed involving the reduced private way length, the requirement for rip-rap road ditches, adequate level

spreader, and the future extension of the private way. Both the review engineer and the Public Works Director have looked at the proposed rip-rap ditches and the level spreader and believe that the plan is adequate to manage the stormwater flowing down Tranquil Drive. Staff feels the application is complete at this time, with Findings of Fact and Conditions provided for the Board's review.

David St. Clair, St. Clair Associates, told the Board that rip-rap ditches have been added to the 10% grades, with a level lip spreader added at the end of the private way, and regrading to the culvert at the entrance of Tranquil Drive has been done. It is understood that should the private way be extended in the future, the applicant will come back before the Board with updated material.

Mr. Hickey and Mr. St. Clair discussed the existing overhead electric. Mr. St. Clair said discussions will be held with Central Maine Power about pole placement.

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

The Clerk read the Findings of Fact as follows:

Chapter II, Section V, H. Standards for Private Ways

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

Each lot having access to the approved private way shall only be allowed two dwelling units and related accessory buildings and uses.

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The Plan title block reads "Plan of a Private Way"

The Plan has an approval block that reads: "Private Way, Approved by the Town of Gorham Planning Board."

The approval block also has a line for the signatures of a legal majority of the Planning Board, and includes a line for the date of approval.

The Plan shows information sufficient to establish on the ground the exact location, direction, width and length of the private way.

The street plan and profile, and street cross sections are in accordance with Chapter II, Section V., E., 3.

The Plan has a note that reads, "The Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way "

- 3) If a private way provides access to 2 or more lots, a maintenance agreement shall be prepared for the lots accessed by any private way.

The applicant has submitted a private way maintenance agreement for the lots accessed by the private way. Staff and the Town Attorney have reviewed the private way maintenance agreement and it meets the requirements of the Town.

The applicant will be required to record the private way maintenance agreement in the Cumberland County Registry of Deeds within 30 days of the Planning Board's endorsement of the final plan and a recorded copy shall be submitted to the Town Planner prior to the pre-construction meeting being held.

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The paved apron shall be constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

The right of way width is 50' and the paved apron design conforms to the paved apron standards outlined in this section.

- 5) Private ways shall be designed to conform to the standards presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10.

The 433' private way has been designed to the 2-6 lot gravel private way standards. The private way meets all the criteria and design requirements presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10 of the Gorham Land Use and Development Code.

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes.

The proposed private way shall only provide access for six lots or six dwelling units. The existing house lot's legal road frontage shall be from Tranquil Drive and the lot shall be included as one of the six lots/dwelling units permitted on the private way.

- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).

The proposed lot area of the private way is not being utilized to satisfy the minimum lot area requirements for any lots to be served or any front lot over which the private way is located.

Mr. St. Clair said they are satisfied with the Conditions of Approval.

Melinda Shain MOVED and Christopher Hickey SECONDED a motion to grant approval of Nathaniel Hurteau's request for approval of a 433' private way constructed to the Town's 2-6 lot private way standards on 14.74 acres at 439 Libby Avenue, located on Map 47, Lot 4, situated in the Suburban Residential, Rural, and Stream Protection Sub-district zoning districts based on the Findings of Fact and with the conditions of approval as posted prior to the meeting and discussed with the applicant. Motion CARRIED, 4 ayes, 1 abstain (Thomas Hughes) and 2 absent (Andrew McCullough and Corey Theriault). [9:48 p.m.]

OTHER BUSINESS The Board agreed to change the July meeting date from the 2nd of the month to the 16th, pending availability of the Council Chambers.

ANNOUNCEMENTS NONE

ADJOURNMENT

Christopher Hickey MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Andrew McCullough and Corey Theriault absent). [9:55 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2012

**ITEM 1 CONSENT AGENDA – GOODWILL INDUSTRIES – SPILLER PARK
SUBDIVISION/SITE PLAN AMENDMENT**

Approved
Findings of Fact

Chapter IV Section IX - Approval Criteria and Standards

A. Utilization of the Site - The plan for the development will reflect the natural capabilities of the site to support development.

The building and accessory infrastructure are located outside of any wetlands, steep slopes, and other unique natural features located on the site. The proposal is to limit the clearing of trees and disturbance to the site to the greatest extent practical. The proposed plans for development reflect the natural capabilities of the site to support the development.

B. Access to the Site - Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

Additional traffic generated to the site is limited to Goodwill staff because the tenants of the building do not drive. The estimated p.m. and a.m. peak hours are anticipated to generate 1 trip. Access to the site is via Day Road, which has adequate capacity to accommodate the additional traffic generated by the development.

C. Access into the Site - Vehicular access into the development will provide for safe and convenient access.

The existing facility on site is accessed through a paved driveway off Day Road. The proposed gravel driveway will extend off the western side of the existing paved driveway. The new facility's gravel driveway will be 12' wide and constructed with a compact subgrade, geotextile fabric, 12" gravel subbase (MDOT 703.06 Type D) and 3" of crushed gravel (MDOT 703.06 Type A). The design of the new gravel driveway will provide for safe and convenient access to the development.

D. Internal Vehicular Circulation - The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.

The gravel parking space has a 50' long gravel turnaround located just south of the parking lot. The turnaround will allow passenger, service, and emergency vehicles accessing the building to turn around safely prior to exiting the site. To ensure sufficient area to allow fire trucks to safely access the gravel driveway, parking is prohibited in the paved area at the entrance of the new gravel driveway. The use of painted stripes together with the words "No Parking" shall be painted as shown on the plans to ensure no parking will occur in the area required for emergency vehicles to enter/exit the gravel driveway. The layout of the site will provide for the safe movement of passenger, service, and emergency vehicles.

E. Pedestrian Circulation - The development plan will provide for a system of pedestrian circulation within and to the development.

Two paved bituminous sidewalks are proposed between the gravel parking area and the proposed building. The proposed system of pedestrian circulation within the development is adequate. No pedestrian circulation outside the development is necessary.

F. Storm water Management - Adequate provisions will be made for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage system and maintenance plan which will not have adverse impacts on abutting or downstream properties:

Stormwater from the proposed development area will sheet flow into the surrounding woods. The proposed stormwater run-off will not have an adverse impact on abutting or downstream properties.

G. Erosion Control - For all projects, building and site designs and roadway layouts will fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

The construction contractor will install sediment barriers on the down-gradient slopes of the work area meeting the requirements of the Maine Erosion and Sediment Control Handbook. The layout of the site fits and utilizes the existing topography and natural surroundings to the fullest extent possible.

H. Water Supply - The development will be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

The new building will be served through a 1-1/2" waterline off the existing 12" watermain located in South Street (State Route 114). The Portland Water District has reviewed the applicant's proposal and Rico Spugnardi, P.E., Business Development Engineer, has provided a letter dated March 20, 2012 confirming that the District has the ability to serve the proposed project.

I. Sewage Disposal - A sanitary sewer system will be installed at the expense of the developer if the project is located within a sewer service area as identified by the sewer user ordinance. The Site Plan Review Committee or Planning Board may allow individual subsurface waste disposal systems to be used where sewer service is not available.

The new building will be served by an individual subsurface waste disposal system designed to handle an estimated 296 gallons per day. The applicant has submitted an HHE-200 for the design of the system, which was prepared by Richard Swett, Licensed Site Evaluator #34.

J. Utilities - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project.

The building will be served by underground telephone, cable, and phone service from South Street (State Route 114). The proposed utility service is adequate to meet the anticipated use of a three bedroom house.

K. Natural Features - The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction.

Clearing of the woodlands is limited to the amount necessary to install the building and supporting infrastructure. No wetland or water bodies will be impacted by the proposed development.

L. Groundwater Protection - The proposed site development and use will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems.

The proposed development of the site for a three bedroom dwelling private non-medical care institution will not adversely impact either the quality or quantity of the groundwater available to abutting properties or public water supply systems.

M. Exterior Lighting - The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

The southeastern corner of the proposed 1,709 sq.ft. building shall have a motion-activated light fixture with photocell. The light fixture will be directed towards the gravel parking lot. The development's exterior lighting provides for the safe use of the development in nighttime hours.

O. Waste Disposal - The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.

The solid waste from the new building will be handled through the existing buildings' licensed waste hauler. No new dumpsters or other external waste enclosures are proposed. The development will provide for the adequate disposal of solid waste from the site.

P. Landscaping - The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.

No additional landscaping for the development is proposed. The location of existing vegetation on the site is adequate to break up parking areas, soften the appearance of the development, and protect abutting properties from adverse impacts of the development.

Q. Shoreland Relationship - The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of occupants of the development.

The parcel does not abut a water body and is not located within the Town's Shoreland Overlay District.

R. Technical and Financial Capacity. The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with this Code and the approved plan.

The project has been designed by a licensed professional engineer in the State of Maine. The applicant has stated that the proposed financing for the project will be from Goodwill Industries' capital improvements budget. The applicant is required to establish a performance guarantee in conformance with the Land Use and Development Code prior to a preconstruction meeting being held for the project. The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with the Code and the approved plan.

S. Buffering - The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.

The proposed development is located inside the parcel with substantial woodlands between the proposed building and abutting residential uses. The existing woodlands are adequate to buffer the proposed use from the abutting residential properties.

T. Noise – The applicant has demonstrated that the development will comply with the noise regulations listed in Table 1 – Sound Level Limits and the associated ordinances.

The proposed development use of the site as a three bedroom dwelling private non-medical care institution for the developmentally disabled shall comply with the noise regulations listed in Table 1- Sound Level Limits and the associated ordinances.

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 or Site Plan Review Committee, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the site plan, 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 Code Enforcement Office shall inspect all electrical cable or conduit before burial;
5. That the applicant shall install a private driveway name sign meeting the requirements of the Town of Gorham prior to issuance of a certificate of occupancy;
6. That any proposed use on the site shall meet the sound level requirements outlined under Chapter IV, Section IX, T. Noise;

7. That the building shall be completely sprinkled meeting all the requirements of the Town's Sprinkler Ordinance, the sprinkler plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting, and the plans shall be submitted to the Gorham Fire Department at least two weeks prior to the start of the installation of the system;
8. That the building construction plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting;
9. That the building shall meet all applicable sections of the NFPA 101 Life Safety Code and NFPA Fire Prevention Code 1;
10. That the sprinkler test papers shall be provided to the Fire Department before a certificate of occupancy is issued;
11. That prior to the pre-construction meeting the applicant will establish the following: a performance guarantee totaling 125% of the costs to complete the construction and an escrow for field inspection meeting the approvals of Town Staff and the Town's Attorney;
12. That prior to the commencement of any site improvements, the applicant, their earthwork contractor, and the design engineer shall arrange a pre-construction meeting with the Town's Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Town Planner to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
13. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
14. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
15. That these conditions of approval must be added to the site plan and the site plan 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 mylar copy of the recorded site plan shall be returned to the Town Planner prior to the pre-construction meeting.

ITEM 5 - NATHANIEL HURTEAU PRIVATE WAY REVIEW – TRANQUIL DRIVE

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 of the private way, 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 at least one week prior to the date of the pre-construction meeting, four complete sets 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;
5. That prior to the pre-construction meeting, the applicant must provide estimated costs for the proposed improvements and must establish the performance guarantee per the Land Use and Development Code, including an escrow for field inspection based on costs for improvements shown on the plan;
6. That prior to commencement of construction, the applicant, applicant's engineer and earthwork contractor shall have a pre-construction meeting with the Town's Engineer, Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief;
7. That the private way shall be properly maintained for access of emergency vehicles year round;
8. That the houses shall be properly numbered with the numbers being visible from the private way year around;
9. That the private way shall be properly named and signed with a Town approved street sign and the name of the street shall be approved by the Police and Fire Chiefs with the street signs being installed as soon as the street is constructed;
10. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control: Best Management Practices", Department of Environmental Protection, latest edition;
11. That the Private Way Maintenance Agreement 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 recorded copy of the Private Way Maintenance Agreement shall be returned to the Town Planner prior to the pre-construction meeting;
12. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
13. That these conditions of approval must be added to the private way plan and the private way plan shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded mylar copy of the private way plan shall be returned to the Town Planner prior to the Pre-construction Meeting.