



**Town of Gorham**  
**June 4, 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**  
**THOMAS HUGHES**  
**MELINDA SHAIN**  
**COREY THERIAULT**

**Staff Present:**

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

**Members Absent:**

**ANDREW MCCULLOUGH**

Edward Zelmanow, Chairman, called the meeting to order at 7:00 p.m. The Clerk called the roll, noting that Andrew McCullough was absent.

**APPROVAL OF THE MAY 7, 2012 MINUTES**

**Thomas Hughes MOVED and Melinda Shain SECONDED a motion to approve the minutes of May 7, 2012 as written and distributed.**

Discussion: It was confirmed to Mr. Hickey that the reference to "BEP" in the comments made by Robert S. Hark, Esquire, on the Caruso lot split application at the May 7, 2012 meeting is in fact an acronym for "Board" of Environmental Protection and is not a typographic error for "Department" of Environmental Protection.

**MOTION CARRIED, 5 ayes (Christopher Hickey abstaining as not having been present at the May 7, 2012 meeting and Andrew McCullough absent).**

---

**COMMITTEE REPORTS**

Mr. Theriault, Chair of the Committee, reported that the Ordinance Review Committee met on May 21, 2012 and discussed the items which were reviewed earlier this evening at the Board's workshop relating to Chapters II and III.

Ms. Shain said that the Streets and Ways Sub-Committee has not met since the last Board meeting.

---

**CHAIRMAN'S REPORT – No report.**

---

**ADMINISTRATIVE REVIEW REPORTS –** Mr. Poirier reported that an application has been received from Shawn Moody for a private landing strip for small airplanes on Mr. Moody's property on Elkins Road. The project has gone through the public notice process, and staff will be working with the applicant to finalize the plans for signature.

---

**ITEM 1 Public Hearing Continued Site Plan Amendment -** Gorham House Partnership request for approval of a proposed building and parking expansion, renovating the skilled nursing wing with an approximately 3,232 square feet slab on grade, one-story addition, with site work to expand the parking lot by 20 spaces, adding sidewalks, and relocating the memorial garden and

gazebo, located at 50 New Portland Road on Map 100 Lots 65.1, 72.1, 73.1 and 78, Urban Residential zoning district.

Mr. Hughes asked to be recused as he was not involved in prior discussions on the application.

Mr. Poirier said this public hearing is continued from the applicant's appearance at the March 5, 2012 Planning Board meeting. The applicant at that time requested that the item be tabled until some DEP permitting concerns had been addressed, as well as consolidating ownership under one owner. Mr. Poirier said that the applicant is still waiting for DEP approval; the applicant has provided a copy of an email that indicates one more response is required before DEP can draft the permit for approval.

Mr. Theriault asked if the DEP permit could be treated as a condition of approval. Mr. Zelmanow said that as a rule the Board wants to have the DEP permit in hand before final approval in order to be sure that DEP has not made any changes the Board doesn't know about.

Rachel Sunnell, Gawron-Turgeon Architects, came to the podium and introduced Jim Fisher with Northeast Civil Solutions. Mr. Fisher said there is already a DEP permit in place, but the current application will require an amendment to that permit, which he said has been tacitly approved, as three of the four individuals at DEP who need to sign off on the permit have done so. Ms. Shain asked if there were any changes to the plan because of DEP issues. In response to Ms. Shain, Mr. Fisher said that the existing dry pond area will be augmented by 2 cachements.

After considerable discussion about whether to accept the DEP email as sufficient evidence of DEP approval, the Board decided that for the sake of consistency for future applications, the Consent Agenda route is preferred so that the applicant can submit its DEP permit to staff for review before the Board takes a final vote. Mr. Zelmanow confirmed with the Board that the proposed Findings of Fact are satisfactory, except that Finding "L," dealing with groundwater protection, is dependent on the applicant's securing the DEP permit. Mr. Fisher confirmed that the applicant has no issues with the Conditions of Approval.

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

**Melinda Shain MOVED and George Fox SECONDED a motion to place this item on the Consent Agenda for the Board's July 16, 2012 meeting.**

Discussion: Mr. Hickey suggested that the Board place the item on its optional second June meeting, June 18<sup>th</sup>. Ms. Shain amended her motion; the seconder concurred.

**Motion amended to place the item on the Consent Agenda for the Board's June 18, 2012 meeting. Motion CARRIED, 5 ayes (Thomas Hughes recused, Andrew McCullough absent).**

---

Mr. Hughes returned to the dais.

**ITEM 2   Subdivision Amendment Review** - Travis Caruso request for approval of an amendment to Fort Hill Estates Subdivision to revise the size of Lot 1 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). The property is located at 53 Phinney Street on Map 43 Lot 1 in the Rural zoning district.

Mr. Hickey stated that while he was not present at the May 7, 2012, meeting, he has reviewed the minutes and materials presented and feels he can participate in the discussion this evening.

Mr. Poirier reminded the Board that when this application was before it on May 7, 2012, the Board discussed legal questions raised by the abutters as well as the requirement for an amendment to the Fort

Hills Estates Subdivision's DEP Site Location of Development permit. The Board asked that the Town Attorney review the legal issues raised by the abutters and provide the Board with her opinion on these issues. Mr. Poirier said that staff has received information that the applicant is working through its DEP permit and while the applicant has requested a formal written determination from the DEP, staff has yet to see a copy of that written determination. Mr. Poirier said that this item is on the agenda for informational purposes to update the Board on where the applicant is in the process.

Mr. Theriault commented that that the Town Attorney's letter says that the Board should proceed with this review, while the Attorney General says that the applicant should not be looking for a DEP permit. Mr. Poirier said that the Attorney General is talking to the DEP, not to the Planning Board. Mr. Zelmanow said that the Town Attorney advises that the applicant has provided evidence of having right, title and interest in the land to be able to proceed with the application, and as for the Phinney Street Extension issue, the Town Attorney has opined that that issue has no bearing on the Board's review.

Andrew Morrell, BH2M, said their purpose this evening is to provide the Board with an update on the status of the project. As the Board had directed, Mr. Morrell said they have filed for their DEP permit, which has been forwarded to the Attorney General's office. There has been some correspondence indicating that the DEP is not willing to grant the application; however, the applicant and its attorney are working through that and it is anticipated that they will have their permit before the next meeting. Mr. Morrell indicated that they have correspondence from the DEP that they are still considering the applicant's application.

Mr. Hughes pointed out that no exception is being made in requiring that staff have a DEP permit in hand to review before granting approval, that this has been the Board's usual practice over the years, as evidenced by the Board's decision in dealing with the previous application this evening.

**PUBLIC COMMENT PERIOD OPENED:** Bernard Broder, 49 Phinney Street, said he is annoyed about why this item is on the agenda, accused the Board of wasting the abutters' time, said that the item was tabled at the last meeting until the DEP issues was resolved, and said this meeting is unnecessary because the applicant still doesn't have the DEP permit that the Board asked for. In response to a comment made by Mr. Broder, Mr. Zelmanow said he interrupts a speaker only to correct misinterpretations of the facts.

Mr. Hughes said that this meeting is not wasting his time; the applicant has something he wants to add, and the law does not permit "ex parte" or individual meetings between Board members and applicants, so that an open meeting is necessary.

Hans Hansen, interested party, said this meeting brings in people who shouldn't have to come until the applicant has the final DEP permit in hand. He said that when the Attorney General says "no" to the DEP, the applicant can appeal to the State Supreme Court, which should be done before going back to the Board.  
**PUBLIC COMMENT PERIOD ENDED.**

Mr. Zelmanow said that the next time the applicant comes before the Board, it will either be with DEP permit in hand or a letter withdrawing the application because getting the DEP permit is not possible.

**George Fox MOVED and Thomas Hughes SECONDED a motion to table Travis Caruso's request for a subdivision amendment to revise the lot size of lot 1, Map 43, Lot 1, located at 53 Phinney Street, from 4.63 acres to 1.38 acres with remaining land being joined to land owned by C&C Family, LLC (Map 43/L21). Motion CARRIED, 6 ayes (Andrew McCullough absent). [7:50 p.m.]**

---

*Ten Minutes Recess to 8:00 p.m.*

---

Mr. Hughes asked to be recused as he was not involved in prior discussions on the application.

**ITEM 3 Preliminary & Final Subdivision Review - David and Jenifer McCullough request for approval of Flaggy Meadow Road Subdivision, a five-lot subdivision on 2.3 acres off Flaggy Meadow Road, located on Map 105 Lot 32.002, Urban Residential zoning district.**

Mr. Poirier reminded the Board that when the applicant was before it at the April 2, 2012 meeting, the Board denied the applicant's waiver request from the requirement to extend public water based on the public water cost being below the private water cost. The applicant subsequently went before the Town Council to request the waiver, which the Council granted on May 1. Items left for the Board to consider are the applicant's waiver request to have preliminary and final approval granted at the same meeting, and the need for the applicant to receive approval from the Portland Water District for the sewer manhole at Flaggy Meadow Road. Mr. Poirier said the Board could move forward with a condition of approval that the applicant receive a letter from the Water District before the Board's endorsement of the final plan.

In response to Mr. Hickey, Mr. Poirier said that most of the infrastructure being proposed in the subdivision will be maintained by the private lot owners, so it really doesn't require a Portland Water District sign-off. The only piece of infrastructure which will require maintenance by the Portland Water District is the sewer manhole located in Flaggy Meadow Road, so the District should sign off on the manhole design criteria.

Owens McCullough appeared on behalf of the applicants, saying the applicants are requesting preliminary and final approval for the proposed 5 lot subdivision on Flaggy Meadow Road. As Mr. Poirier said, the only remaining item is the manhole issue with the Portland Water District is the one sewer manhole which has to tap into their existing sewer main, which must be done according to their specifications.

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

Mr. Poirier replied to Mr. Hickey the Portland Water District's requirement is pretty standard, the infrastructure being proposed is minimal, and a condition of approval will work. Mr. Poirier read the proposed condition as follows: "That prior to the Planning Board's endorsement of the final subdivision mylar, the applicant shall provide a letter from the Portland Water District approving the proposed sewer and water improvements."

**Christopher Hickey MOVED and George Fox SECONDED a motion to grant David and Jenifer McCullough's request to waive the Planning Board's requirement for separate meeting dates for preliminary and final subdivision approval. Motion CARRIED, 6 ayes (Andrew McCullough absent).**

**Melinda Shain MOVED and George Fox SECONDED a motion to grant David and Jenifer McCullough's request for preliminary and final approvals of a subdivision plan consisting of five single-family residential lots on 2.3 acres off Flaggy Meadow Road, located on Map 105, Lot 32.002, in the Urban Residential zoning district based on the Findings of Fact as written by the Town Planner and the conditions identified by the Planning Board, including the new Condition #10. Motion CARRIED, 5 ayes (Thomas Hughes recused and Andrew McCullough absent). [8:12 p.m.]**

---

Mr. Hughes returned to the dais.

**ITEM 4 Preapplication Review of Site Plan Amendment - Anderson Equipment request for approval of an amendment to the former Plan-It Recycling property to construct an 80' x 100' addition**

for their equipment service department, located off Laurence Drive at 18 Gorham Industrial Parkway on Map 12 Lot 26.001 in the Industrial zoning district.

Mr. Poirier explained that this is a pre-application discussion on a site plan amendment for the former Plan-It Recycling site and suggested that the Board decide if it would like to schedule a site walk if they feel it is warranted.

Owens McCullough appeared on behalf of the applicant and introduced Randy Mace from Anderson Equipment and Tom Dunham, the real estate broker involved. He said that R.J. Grondin & Sons have cleaned up the property, with the materials being taken to the Juniper Ridge Landfill, in exchange for Grondin ending up with the property, which they are now selling to Anderson Equipment.

Mr. McCullough described Anderson Equipment as having purchased R.C. Hazeltons and have 18 branches supporting the construction industry throughout the Northeast. Anderson Equipment will occupy the site as it is, will renovate the existing building for offices and parts area, and will build a new 8,000 square foot building as their service base. The focus on this 8.27 acre site will be sales, rentals, parts and service. There will be a display area toward Route 25 on an existing paved pad as Anderson would like to capture as much visibility as possible. A new access will be put in directly across from the private way constructed by the Grondins. No new developed areas will be constructed; they will be working within existing paved and gravel areas. A concrete apron will be placed on the ingress and egress locations into the building. There will be 6 maintenance bays. Public water and sewer are already available on site, hours of operation will be Monday through Friday, 7 a.m. to 5 p.m. Traffic generation will be less than Plan-It Recycling; that traffic study projected 42 peak vehicle trips in the morning and 32 in the evening; Anderson will generate about 25 in each, but probably the vehicle trips will be distributed more evenly during the day.

Mr. Poirier said that the Town Council has approved the zoning amendment to change this site from Industrial to Roadside Commercial, with the 30-day appeal period just about over.

Mr. McCullough confirmed to Mr. Theriault that the VRAP process with the DEP has been completed and he will include a copy of the VRAP with the application. Mr. Hughes asked about the applicant's timing; Mr. Mace replied sometime this summer, earlier rather than later. Mr. McCullough advised that no new landscaping is proposed and perhaps they could work in the future with the abutter to take down the berm to improve exposure. In response to Mr. Hughes, Mr. McCullough said that the storage yard will be maintained as is because it is one of the advantages of the site for Anderson. Proposed signage was discussed briefly.

The Board discussed the possibility of preliminary and final approval in one meeting and concurred that a site walk would be helpful.

---

**OTHER BUSINESS:**                      **None**

---

**ANNOUNCEMENTS:**              A meeting of the Board will be scheduled for June 18, 2012 for the Consent Agenda item discussed earlier. No new items will be considered at the June 18, 2012 meeting. The Board's July meeting will be held on July 16, 2012.

---

**ADJOURNMENT**

**Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Andrew McCullough absent). [8:40 p.m.]**

Respectfully submitted,

\_\_\_\_\_  
Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2012

**ITEM 3      Flaggy Meadow Subdivision, Map 105, L0t 32.002**

**FINDINGS OF FACT**

**Chapter III Section III – Preliminary Plan Review.**

Chapter III, Section III.C.2) - *The proposed development plan:*

- 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.

*Flaggy Meadow Road subdivision is proposed to be five single-family house lots. Subdivision lot sizes range from 16,675 sq.ft. to 24,142 sq.ft. with road frontages between 80.02' to 155.13'. All the proposed subdivision lots meet the requirements of the Urban Residential zoning district.*

*Lots 2, 3, and 4 are required to be sprinkled meeting the requirements of the Town of Gorham's sprinkler ordinance.*

*The applicant has provided a letter from RBC Wealth Management dated May 9, 2012 identifying that the applicant has the financial capacity to complete the subdivision improvements.*

*Flaggy Meadow Road 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.

*Lots 2 and 3 are required to have a shared access driveway off State Street (State Route 25). The driveway is required to be named per E911 standards. The approved E911 driveway name is Pondsider Drive. The driveway is required to have a street sign installed meeting the requirements of the Town of Gorham.*

*Access to the site is via State Street (State Route 25) and Flaggy Meadow Road. The subdivision is proposed to add 50 daily passenger vehicle trips with the busiest a.m. hour generating 10 trips and busiest p.m. hour generating 10 trips. The proposed 50 daily vehicle trips will not cause congestion or unsafe conditions with respect to use of the public roads.*

- c) will not place an unreasonable burden, by either direct cause or subsequent effect, on the ability 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.

*Flaggy Meadow Road subdivision lots will be served by underground power, cable, and phone lines. Subdivision lots' household trash and recyclables removal will be through the Town's contracted residential waste hauler. The 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.

*Subdivision lots 1 and 5 are to be served by public water with lots 2, 3, and 4 being served by private water wells. The subdivision lots have adequate water supply available to meet present or future needs.*

- e) adequately provides solid waste disposal and sewage waste disposal for present and future needs as reasonably foreseeable.

*Subdivision lots 2, 3, and 4 will be served by low pressure sewer systems that pump sewage waste to a proposed terminus manhole on Flaggy Meadow Road. Maintenance of the low pressure sewer system pump systems will be the responsibility of the homeowners of lots 2, 3, and 4. Subdivision lots 1 and 5*

*will be served by gravity sewer lines. The proposed solid waste disposal and sewage waste disposal is adequate for present and future needs as reasonably foreseeable.*

f) will not result in undue pollution of air, or surficial or ground waters, either on or off the site. *Flaggy Meadow Road Subdivision is proposed to be five single-family house lots and the proposed development of the lots will not result in undue pollution of air, or surficial or ground waters, either on or off the site.*

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.  
*The development of the lots within the subdivision is required to be constructed in compliance with the Maine Department of Environmental Protection, Bureau of Land and Water Quality, Maine Erosion and Sediment Control BMPs. The proposed subdivision 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.*

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.  
*Flaggy Meadow Road subdivision is not located in the Town's Shoreland Overlay District. Flaggy Meadow Road subdivision 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.*

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 proposed residential subdivision will provide housing, landscaping and amenities. No scenic vistas, historic sites or irreplaceable natural or manmade assets will be affected.*

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.  
*Payment of the Recreational Facilities and Open Space Impact Fee is required to be paid with each subdivision lot's building permit fees.*

4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:

a) **Land Improvements:** 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 to provide for the perpetual care of commonly owned recreation land.

*The subdivision does not create any open space or recreational land and facilities.*

#### **Chapter III Section IV – Final Plan Review.**

**(These excerpts are modified on the pages that follow to simplify tracking of the review process. See the current Land Use and Development Code for wording of the complete unabbreviated ordinance.)**

1) The Planning Board shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

*The applicant has been granted a waiver to allow preliminary and final plan approvals to be granted at the same meeting.*

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 preliminary and final subdivision approvals will be at the same meeting and within the 12 month requirement.*

**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;
4. 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;
5. That the homes located on lots 2, 3, and 4 shall be sprinkled meeting all applicable requirements of the Town of Gorham's Sprinkler Ordinance;
6. That the sprinkler plans for lots 2, 3, and 4 shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting, with the plans for the Fire Department to be submitted at least two weeks prior to the start of installation of the system;
7. That the Sprinkler Test papers for lots 2, 3, and 4 shall be provided to the Fire Department before a certificate of occupancy is issued;
8. That prior to the release of the final signed subdivision mylar, a performance guarantee totaling 125% of the costs to complete the construction will be established with the Town,
9. That prior to the start of construction on the site an escrow fund for field inspections will be established with the Town, and a preconstruction meeting with the applicant, applicant's engineer, applicant's earthwork contractor, Town Staff and the Town's engineer for construction scheduling shall be held;
10. That prior to the Planning Board's endorsement of the final subdivision mylar, the applicant shall provide a letter from the Portland Water District approving the proposed sewer and water improvements;
11. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
12. 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 ninety (90) 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.