



Town of Gorham
August 6, 2012
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
GEORGE FOX
THOMAS HUGHES
MELINDA SHAIN
COREY THERIAULT

Staff Present:

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

Members Absent:

CHRISTOPHER HICKEY

Edward Zelmanow, Chairman, called the meeting to order at 7:05 p.m. The Clerk called the roll, noting that Christopher Hickey was absent.

APPROVAL OF THE JULY 16, 2012 MINUTES

Thomas Hughes MOVED and George Fox SECONDED a motion to approve the minutes of July 16, 2012 as written and distributed. Motion CARRIED, 4 ayes (Corey Theriault abstaining as not having been present at the meeting; Christopher Hickey absent). [7:06 p.m.]

COMMITTEE REPORTS

Mr. Zelmanow noted that at its workshop earlier this evening, the Board forwarded a proposed ordinance change to the Streets and Ways Subcommittee for review. Mr. Theriault said that the Ordinance Subcommittee has not met since the last Board meeting.

CHAIRMAN'S REPORT – Mr. Zelmanow noted that there is still a vacancy for the 7th member of the Planning Board.

ADMINISTRATIVE REVIEW REPORTS – Mr. Poirier described three new Administrative Review applications under review as follows: (1) 6 Oxford Street, LLC, pre-owned automobile sales facility at 669 Main Street; (2) Carl Phillips, Phillips Auto Body, request for approval to add a steel arch building for storage and sand blasting; and (3) PineCrest Bed and Breakfast for parking expansion. Mr. Poirier noted that the PineCrest application will also come before the Board for review under the buffer provisions for bed and breakfast in the Code. Mr. Poirier told Mr. Hughes that the PineCrest application will go through Administrative Review because it is an amendment to an Administrative Review project. Mr. Poirier replied to a query from Ms. Shain that the PineCrest review will not require a variance request because the Ordinance was amended to allow parking in the front setback so long as the buffer provisions are reviewed and approved by the Planning Board.

ITEM 1 - SUBDIVISION AMENDMENT - Diversified Properties, Inc. request for approval of a 50' right-of-way to the easterly property line of Lot 22 in the Gordon Farms Subdivision Phase II, located at 79 Gordon Farms Road, Map 45 Lot 23.422, Rural zoning district.

Mr. Poirier advised that the applicant has asked that the item be removed from the Agenda.

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion that Item 1 be removed from the Agenda at the request of the applicant. Motion CARRIED, 5 ayes (Christopher Hickey absent). [7:10 p.m.]

ITEM 2 - SUBDIVISION AMENDMENT - Risbara Brothers Construction request for approval of an amendment to Wagner Farms subdivision for Wagner Farms II, a proposed 10-lot subdivision designed under the Development Transfer Overlay District on 3.44 acres with an internal \pm 510' roadway, located at 222 Libby Avenue, Map 30 Lot 13, Urban Residential zoning district.

Mr. Poirier said this item was last before the Board at the April 23, 2012 Planning Board meeting as a pre-application. At the pre-application, the Board agreed that a site walk is necessary, and staff would like to schedule a site walk for the project within the next 10 to 14 days. The applicant is requesting two waivers, one for the submission requirement for a high intensity soil survey and the second for the 300 foot separation requirement of intersections on the same side of the street for Laceys Way and Wagner Farm Road. Mr. Poirier said he had spoken with Bob Burns, the Public Works Director, who said he feels comfortable with the separation distance so long as it is greater than 180 feet, which the proposed separation is. Mr. Poirier said he does not as yet have anything in writing from Mr. Burns but does expect to receive something. Mr. Poirier said that the Board has been presented with staff reviews; he noted one correction to "2. Subdivision Plan, f." changing the build-to-lines for lots 1, 7, 8, 9 and 10 from 70 feet to 30 feet. Proposed Findings of Fact are complete with the exception of c., having to do with working through some of the issues involving the hammerhead and other items.

Nancy St. Clair, St. Clair Associates, introduced Rocco Risbara and gave the Board an overview of the project. She said that the proposal is for 10 single family lots, with one of the 10 being the existing Wagner farmhouse located at 222 Libby Avenue. The existing house, garage and shed will remain within lot 10, and the existing barn will be retained on lot 9 with a new house to accompany the barn, if desired. The proposed road name is Laceys Way, to terminate in a left-hand hammerhead, which they hope to talk to the Board about. The proposed lots and the existing farmhouse are all to be accessed by the internal roadway; there are currently two existing curb cuts for the looped driveway for the existing farmhouse which will be removed, as well as an unimproved curb cut toward Route 202 which will not be used. The site is in the Urban Residential zoning district and the applicant is looking at the Development Transfer Overlay zoning district provisions as well, with the lots having been designed to meet those standards.

Ms. St. Clair noted that while the Board looks upon this project as a stand-alone project, for the purposes of the DEP, there is an existing stormwater permit that was issued for the original Wagner Farms subdivision, which will be amended as the DEP considers this project an amendment to the original subdivision. With the original DEP permit for Wagner Farms, basic and general flooding standards had to be met under Chapter 500 of the stormwater regulations. Because this is an amendment, even given its size and limited proposed impervious area, this project must also meet those standards so there is a fairly extensive design for stormwater management to address a relatively small piece of property. Stormwater runoff from the road and proposed homes will be treated by the introduction of two grassed underdrain soil filters. The application materials will be amended to note that this project is also subject to the Town's Stormwater Ordinance, Chapter 2 – Post Construction Stormwater Management.

Ms. St. Clair said that they are addressing some of staff's comments and referred to the two waivers being sought. With regard to the second waiver, the separation distance between Laceys Way and Wagner Farm Road, it is their understanding that the Public Works Director will confirm his support for the slight reduction in the mandatory 300 feet. Ms. St. Clair said that Bill Bray, their traffic engineer, has indicated that the separation requirement has to do with stacking of left-turning vehicles and separation distances on

the same side would be a concern if there were an extensive stack associated with a left turn maneuver into Wagner Farms. However, given the volume of trips associated with the existing Wagner Farms subdivision, Mr. Bray's report notes that there is sufficient sight distance to see the Wagner Farm intersection, and left turning volumes associated with both parts of Wagner Farm would not be of a magnitude to cause concern about an overlap of stacked vehicles waiting to turn left.

Ms. St. Clair said they would like to have their approvals in hand so that the utility extensions proposed along Libby Avenue can occur prior to the closing of pavement plants in the fall.

Ms. St. Clair replied to a query from Mr. Fox about the three curb cuts on the property, explaining that the northerly curb cut will be closed; and the looped driveway will be severed with a driveway to serve the existing house coming in off Laceys Way. All the other homes within the subdivision will be accessed off Laceys Way. Ms. Shain asked for an explanation of the reason for the separation distance waiver request. Ms. St. Clair explained that the location of the proposed Laceys Way has met the standard for safe sight distance. The sight distance requirement of 300 feet specified in the tables in the Code can be waived by the Board. Mr. Zelmanow said that the Board can waive the requirement as long as the waiver does not have a significant adverse impact on the environment, public health and safety or the cost of providing municipal services. Mr. Zelmanow said that staff is waiting for written confirmation that the Public Works Director has no issue with the proposed separation distance.

The Board discussed with Ms. St. Clair the issue of the left-turning hammerhead. Ms. St. Clair said that current standards in the Code allow for a hammerhead in either direction but she understands the Public Works Director prefers a hammerhead to turn to the right. She indicated that they will look to see if the hammerhead can be flipped, but due to wetland issues it could prove problematic to shift the lots to make that accommodation. It was suggested that Ms. St. Clair talk with the Public Works Director about the hammerhead.

Mr. Theriault asked about open space requirements; Mr. Poirier read the standard from the Code for the DTO district that "A portion of any new subdivision or project with more than ten lots or units must be set aside with the development and permanently protected as open space to serve the residents of that project." As this project is 10 lots, the DTO open standards do not apply. In response to Ms. Shain, Ms. St. Clair said that when the Wagner Farms lot owners' association was established, it was established based on the ownership of the properties developed in Wagner Farm, which did not include the 3.44 acre parcel now under discussion. Therefore the lots now under consideration do not have the right of access within the Wagner Farms association. Ms. Shain suggested that the project not be called Wagner Farms II as it is confusing. Mr. Zelmanow agreed, saying that makes it sound as though it is a phased project from the original Wagner Farms.

Mr. Risbara came to the podium and said that in the eyes of the Town it is an amendment to the subdivision, in the eyes of the state it is an amendment to the subdivision. According to his attorney, had he still owned the original Wagner subdivision, he probably could have added this, but it sold out and he never anticipated this parcel's lots would be added to that association. He has been advised by his attorney that they have no rights to add it so it has to be a stand-alone. While it does stand alone, it is an amendment to the approved plan.

The Board discussed the question of whether this application is a stand-alone project or an amendment to the original Wagner Farms subdivision. Ms. Shain said that for some purposes, such as DEP, this is an amendment, for the Board's purposes this was an out lot and now it is being treated as a stand-alone project. She asked if the lots in this project have rights to Wagner Farms and said that it could matter if the rights of I and II are intertwined in terms of titles and rights. Ms. St. Clair said that the DEP is very clear that this is an amendment to the permit that was issued as part of Wagner Farms.

Mr. Zelmanow said that the Board would like the Town Attorney to provide the Board with her written opinion as to whether this is a true amendment to the original approved subdivision, or is this its own stand-alone subdivision in the eyes of the Town.

Ms. St. Clair pointed out the location of proposed sidewalks along the entire length of Lacey's Way, comprised of a 5 foot sidewalk and a 9 foot esplanade behind the curbing. In reply to Mr. Zelmanow, Ms. St. Clair said that connecting to the sidewalk in the original Wagner subdivision would involve looking for available area in the right-of-way, which would be the same 265 feet as in the separation distance. Mr. Risbara said they would be willing to tie the sidewalks together if the Board feels it is important to do so. Mr. Hughes suggested that if the sidewalks were tied together, school children could use the existing school bus stops in the current Wagner Farms. Mr. Theriault asked if the sidewalk could be extended to the open space and trails in Wagner Farms I; Mr. Risbara replied that they cannot, he does not have the right to do that because that existing open space is for the owners of that subdivision only. Ms. Shain asked about adding additional sidewalk on Libby Avenue to the Lawn Avenue subdivision on the other side of the street as the developer did not have to add any with the first Wagner subdivision. Mr. Risbara said he did not feel he could afford to do that and reminded the Board that in the original Wagner project an entire street, all but the pavement, was built to Town requirements, curbing and drainage was put in, it was loamed over and a sidewalk was built because the Board wanted that done to tie the Wagner neighborhood in with Gateway Commons subdivision. Mr. Risbara said that the distance to go down to Lawn Avenue is approximately the same distance that they ran the sewer and water, 750 feet. He said he does not believe he can afford to run sidewalks that same length although he will take a look at it. Mr. Zelmanow suggested that the Board look at it during the site walk.

Ms. Shain and Ms. St. Clair discussed the recommendation from the applicant's traffic engineer, William Bray, for a detailed traffic signal warrant study for the intersection of Route 25 and Libby Avenue within a five-year time frame. Mr. Zelmanow said he believes that the intersection was revisited; Mr. Risbara confirmed that the blinking red light at that intersection appeared after Wagner Farms I.

PUBLIC COMMENT PERIOD OPENED: Rodney Anderson, 190 Libby Avenue, asked about the site walk schedule. Mr. Zelmanow replied that it probably would be sometime this month. Mr. Anderson asked when blasting will occur and said he believed no waivers should be granted as this is obviously a separate application. Mr. Risbara replied that some blasting will have to be done in Libby Avenue and does not anticipate a large amount of blasting once they get into the project. No test drilling has been done yet but based on their experience with Wagner Farms I, they do know there will be ledge. Ms. St. Clair said that the high point in the parcel is in the vicinity of the existing farmhouse and some excavation will be needed for the road section and utilities. Gas will be put into Wagner Farms II.
PUBLIC COMMENT PERIOD ENDED.

The Board considered the two waiver requests. Ms. St. Clair said that Mr. Risbara had discussions with the Public Works Director about the separation distance requirement waiver so their understanding is the same as Mr. Poirier's that the Public Works Director supports granting the waiver, as does the Town's review engineer. Mr. Risbara said he believes that a high intensity soil survey was done for Wagner Farms I.

Waiver Request #1 – Chapter III, Section III, Subsection B(11), High Intensity Soil Survey:

Melinda Shain MOVED and Corey Theriault SECONDED a motion to grant Risbara Brothers Construction's request to waive the subdivision requirement for a high intensity soil survey. Motion CARRIED, 5 ayes (Christopher Hickey absent). [7:55 p.m.]

Waiver Request #2 – Chapter II, Section V, Subsection D (4b), Urban Access Street – Table I

Ms. St. Clair said that another reason for the separation request is a desire to keep the existing tree in front of the existing farmhouse. Mr. Zelmanow commented that the Town's review engineer, Woodard & Curran, has no objection to the waiver request. Mr. Hughes said he will support that waiver if the Public Works Director does. Ms. Shain said she would like to see something from the Public Works Director in the form of some sort of documentation.

Thomas Hughes MOVED and Corey Theriault SECONDED a motion to grant Risbara Brothers Construction's request for a separation of 265 feet between the intersection of Libby Avenue/Laceys Way and the intersection of Libby Avenue/Wagner Farm Road. Motion CARRIED, 3 ayes and 2 nays (Shain, Fox) and 1 absent (Hickey). [8:10 p.m.]

Mr. Poirier answered a question from Mr. Hughes that the Town's traffic engineer is Tom Errico with T.Y. Lin. The Board concurred that Mr. Bray's Traffic Assessment Report did not need to be sent for review by the Town's Traffic peer review engineer.

Mr. Poirier suggested that the Board consider the Code's requirement for access to adjoining land. In this case the only adjoining land is open space on Wagner Farms I. Mr. Zelmanow said perhaps that can be looked at during the site walk. Mr. Risbara said that by deed it is undevelopable. Ms. St. Clair pointed out the homes developed on some of the perimeter and the deeded open space on the rest, so there is no adjoining developable land. Mr. Poirier said he does not believe a vote is necessary if the Board is in agreement that access to adjoining land is not possible. Mr. Hughes suggested that the question be deferred until the site walk.

The Board asked that the centerline of the road be staked out the site walk, as well as the natural boundary for the lots closest to Wagner Farms I and the usable open space between Lots 3 and 4. Ms. St. Clair will be advised as soon as a date has been scheduled for the site walk.

OTHER BUSINESS NONE

ANNOUNCEMENTS NONE

ADJOURNMENT

Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Christopher Hickey absent). [8:20 p.m.]

Respectfully submitted,

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