



**Town of Gorham  
January 7, 2013  
PLANNING BOARD MINUTES**

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

**Members Present:**

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

**Staff Present:**

**THOMAS M. POIRIER, Town Planner  
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 NOVEMBER 5, 2012 MINUTES**

**Corey Theriault MOVED and Thomas Hughes SECONDED a motion to approve the minutes of November 5, 2012 as written and distributed. Motion CARRIED, 6 ayes (Christopher Hickey absent). [7:06 p.m.]**

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**COMMITTEE REPORTS** – Mr. Theriault reported that a meeting of the Ordinance Review Committee is scheduled after the conclusion of the regular Board meeting this evening. Ms. Shain reported that the Streets and Ways Subcommittee has not met since the last Board meeting.

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**CHAIRMAN’S REPORT** – Mr. Zelmanow said there is no Chairman’s report this evening.

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**ADMINISTRATIVE REVIEW REPORT** – Mr. Poirier reported on the following applications: (1) staff met with Champagne’s Energy and is waiting a resubmission of the site plan; (2) staff is awaiting a revised deed from the applicant in the Phillips Auto Body matter in order to complete the review on that project; and (3) in the PineCrest Bed and Breakfast matter, the applicant needs to make some changes to the final plan and staff will then move forward with approving the project. In reply to Mr. Hughes, Mr. Poirier told the Board that this is the same project it had reviewed for the applicant’s buffering and fence on October 1, 2012.

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**ITEM 1 PUBLIC HEARING, ZONING MAP AMENDMENT, Gorham Village Area**  
To make technical zoning boundary adjustments to individual lots located in the Gorham Village Center district, Urban Commercial district, and the Urban Residential district.

Mr. Poirier gave a general overview of the process involved for zoning amendments, noting that amendments to the official zoning map are identified in the Land Use and Development Code as requiring a public hearing to be held by the Planning Board. This item was forwarded to the Planning Board by the Council on October 2, 2012; the Board held a workshop on this item on

December 3, 2012, at which time the Board recommended that the item be placed on the agenda this evening for public hearing. After this public hearing, the Planning Board could then forward a recommendation to the Town Council for its public hearing at a future meeting without changing the proposed amendments, or the Board can make changes and recommend those to the Council. Mr. Poirier then asked the Zoning Administrator, David Galbraith, to discuss the proposed amendments, as Mr. Galbraith had provided the Board with a memo of explanation dated November 1, 2012, for its December 3 meeting, along with a map outlining the proposed changes.

Mr. Galbraith referred to his memo of November 1, 2012, in which he outlined the basic 8 areas where rezoning is recommended. He said that some of the current zoning does not match what is actually being utilized on the face of the earth, with a number of properties being in split zones, some commercial uses being in residential uses, such as two properties on the northwest corner of State Street and School Street which have zoning lines running straight through them. Another example is Sebago Brew, which is located in a residential zone, although it has been a commercially utilized use for many years. Mr. Galbraith explained that most of these changes are housekeeping in nature and everyone affected and all abutters have been notified of tonight's public hearing.

Mr. Zelmanow asked how the rezoning of the lots affect the current uses with regard to grandfathering and if there should ever be a change of use in the future. Mr. Galbraith said that most of these changes help the property owners because it allows continued use and is intended to match the proposed zoning with what is on the face of the earth now. In reply to Mr. Zelmanow, Mr. Galbraith said that under the proposed recommended changes, there will be no lots with split zones.

**PUBLIC COMMENT PERIOD OPENED:** Jeff Mason, who with his wife Jane owns 39 Main Street, PoGo Realty office building. He said that the back section of their parking is affected and believes that this is a great idea for the future.

Amy Leddy, an abutter on the east side of Robie Street, asked if there is any change of use proposed for the strip of property she abuts which is proposed to be changed to Urban Commercial. She said the strip covers a stream which lies along the border which she says is a buffer between her home and the adjoining commercial parking lot. She is concerned about that buffer being cleared or reduced in the future. Mr. Galbraith replied that there are no proposed changes at this time.  
**PUBLIC COMMENT PERIOD ENDED.**

Mr. Zelmanow thanked staff and the Planning Department for the preparation involved in presenting this item, and said he hoped that Mr. Galbraith's memorandum of November 1, 2012, will accompany the map being forwarded to the Council.

Mr. Poirier replied to a question from Ms. Shain that the brook mentioned earlier is considered by IF&W as a stream as it has trout in it, so at a minimum IF&W would need to be consulted before any clearing around it could be undertaken, and as a possible commercial use, it would need to be reviewed by either the Site Plan Review Committee or the Planning Board.

The Board, Mr. Galbraith and Mr. Poirier discussed various other areas of Gorham which may require a similar process in the future to adjust zoning boundaries. Mr. Hughes commented that the process used in this instance could serve as a template for future technical zoning boundary adjustments.

**Thomas Hughes MOVED and George Fox SECONDED a motion to recommend adoption by the Town Council of the proposed amendments to the official zoning map as identified by the Town Planner. Motion CARRIED, 6 ayes (Christopher Hickey absent). [7:20 p.m.]**

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**ITEM 2 SUBDIVISION AMENDMENT – JEFFREY AND JANE MASON**

Request for approval of an amendment to split a new single family lot off an existing two-family house lot, located at 111 Libby Avenue, Map 27, L3.002, Urban Residential zoning district.

Mr. Poirier said this is the first time the Board has reviewed this proposed subdivision amendment. This is the second amendment to a subdivision that was first approved in May of 1995 for a single family located on Map 27, Lot 3.001 and a two family located on Map 27, Lot 3.002. The initial subdivision approval was required because the applicant was constructing three dwelling units within a five year period. The first amendment to the subdivision was in 2004 for a lot line revision to Map 27, Lots 3.001 and 3.002, and now this second amendment is for approval to split Lot 27, Lot 3.002 into two lots, one for the existing two-family dwelling and the other lot having enough land area for a single-family dwelling. Mr. Poirier called the Board's attention to the applicants' three waiver requests from the subdivision submission requirements: one waiver is for providing a high intensity soils survey, one is for showing the location of the existing sanitary sewer and storm sewer on Shepards Way, and the third is for showing the location of the existing water supply on Shepards Way. The only outstanding item is to locate the Assessor's address table on the map, which staff believes can be done by adding the table to the plan before it is presented to the Board for signature. Staff does not believe a condition of approval is needed to address this item.

Jeffrey Mason said he was before the Planning Board in 2004 to create a lot such as that being discussed this evening. However, due to net residential density issues, he decided to wait until Shepards Way and the abutting development were completed and to use the frontage from Shepards Way for this current project. He also brought water into the lot and created a curb cut from Libby Avenue; however, with the frontage now from Shepards Way he plans to use it for a curb cut into the lot and close the curb cut on Libby Ave.

Ms. Shain confirmed that the existing curb cut off Libby will be closed. The Board concurred that there will be a plan note that the existing curb cut off Libby Ave will be removed. In response to a comment from Mr. Theriault, Mr. Poirier said that as long as the property has frontage on Libby Ave the Water District will have no problem running water, but he will confirm that with the District.

Mr. Zelmanow summarized the reasoning behind the three waiver requests from Chapter III's submission requirements as follows: the high intensity soil survey is not required because the proposed lot is a split from an existing urban lot and all lots have public water and sewer; the requirement to show the existing location of sanitary and storm sewer on Shepards Way is not required as those utilities are existing from Libby Ave; and the requirement to show the location of existing water supply on Shepards Way is not required as that utility is existing from Libby Ave. In reply to Mr. Hughes, Mr. Poirier said that the high intensity soil survey was not required in the original subdivision approval and was waived in the first amendment.

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

**George Fox MOVED and Melinda Shain SECONDED a motion to grant Jeffrey and Jane Mason's request to waive the Subdivision Submission requirements under Chapter III, Section III, Subsection B, 11: High Intensity Soil Survey; 16: Sanitary Sewer and Storm Sewer for the infrastructure located in Shepards Way; and 17: Water supply for the infrastructure located in Shepards Way. Motion CARRIED, 6 ayes (Christopher Hickey absent). [7:19 p.m.]**

The Board had no issues with or corrections to the Findings of Fact. Mr. Poirier said that the applicants are satisfied with the Conditions of Approval.

**Corey Theriault MOVED and Thomas Hughes SECONDED a motion to grant Jeffrey and Jane Mason's request for subdivision amendment approval to the subdivision located on Map 27, Lot 3.002, in the Urban Residential (UR) district based on the Findings of Fact and conditions of approval as written by the Town Planner. Motion CARRIED, 6 ayes (Christopher Hickey absent). [7:20 p.m.]**

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**ITEM 3 PREAPPLICATION FOR SITE PLAN AMENDMENT - Mega Industries**  
Request for approval of an amendment to build a 7,400 square foot pre-engineered steel building addition to the existing 30,000 sq. ft. building located at 28 Sanford Drive, Map 12 Lot 33.014, Industrial zoning district.

Mr. Poirier said that as this is on the agenda as a pre-application, it is for discussion between the applicant and the Board and the plans have not been distributed to staff for review. Staff has identified some items for the Board to consider: from the site plan submitted, it appears that a portion of the proposed building encroaches into the 30' side setback along the western property line. According to the Land Use Code, any new addition to a structure or building that currently conforms to all required setbacks is not allowed to encroach into the setback. Mr. Poirier said that the setback line is measured from the wall of the building, and not the overhang of the building, so if a building has a roof overhang of 6 inches, it can be within the setback but the wall of the building must be outside the 30' setback. Mr. Poirier also asked the Board to consider if a site walk is necessary, which could be scheduled before a public hearing on an application from the applicant.

Peter Anania, President of Mega Industries and Anania & Associates, introduced Jeff Tounge and Peter Matthews, CEO of Mega Industries. Mr. Anania said there are some discrepancies on the property lines; if the original iron pipes are used, they are fine, but if the granite monumentation added later are used, they are off by 2-1/2 feet. Therefore, they still need to resolve where the real line is; they will then move the building so that it is not encroaching on the setback. He said that the application is to add 7,400 square feet more of light manufacturing space and a loading dock on to the facility to accommodate the company's growth.

Mr. Zelmanow commented that the lot line issue should be resolved before the Board considers an application.

Mr. Poirier noted that an email addressed to the Town Planner and to Mr. Zelmanow was received from Board member Christopher Hickey, vice chairman, on January 7, 2013. As Mr. Hickey is not able to be present at this evening's meeting, Mr. Poirier read into the record the following questions to which Mr. Hickey would like responses from the applicant:

Question #1: "There appear to be some structures in the lawn area where the expansion is being proposed. What are these? If existing drainage or treatment, how is it being rerouted?"

Mr. Anania replied that the structure is probably the smoking shelter or gazebo and the horseshoe pit, which will be eliminated.

Question #2: "Will there be any overhead doors for vehicle access? If so, is there space for turning?"

Mr. Anania pointed out on the plan an existing loading dock and the proposed loading dock. Mr. Zelmanow asked if turning radii will have to be shown. Mr. Anania said that trucks would back in on existing pavement.

Mr. Anania pointed out the loading dock

Question #3: "Will there be a 'main door' for the addition or is this merely additional bulk space? Is there any pedestrian traffic to/from the addition on the outside of the building?"

Mr. Anania said there is not. There will be a door between the existing building and the loading dock door. There is also a man door beside the loading dock door.

Question #4: "Is existing buffering adequate to screen any new exterior lighting?" Mr. Zelmanow asked if any new exterior lighting is being proposed. Mr. Anania replied that the existing lighting would be moved over.

Mr. Anderson asked Mr. Anania to show the turning radius of a truck coming to come, saying that backing into the proposed loading dock would appear to be difficult. Mr. Anania demonstrated two different ways a truck could access the proposed loading dock. Mr. Theriault said he would like to see the turning radii set up and how that will work.

Jeff Tounge, Director of Development for Anania & Associates, came to the podium and showed the Board a rendering of the existing building with its current driveway and paved area and described how trucks could back into the first door or the loading dock door, saying that the proposed addition would facilitate another way of pulling in. Mr. Tounge assured Mr. Zelmanow there would be enough clearance for the door next to the new loading dock if there is a truck at the loading dock.

The Board discussed with the applicant the number of parking spaces, impervious surface ratio requirements, stormwater flow direction, and the applicant's timing requirements. Mr. Poirier indicated that staff will work with the applicant for the Board's February meeting.

The Board concurred that no site walk is required.

**OTHER BUSINESS            NONE**

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**ANNOUNCEMENTS**        Mr. Poirier advised the Board of the MMA annual training workshop for Planning and Appeals Boards to be held in Windham on May 22, 2013.

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**ADJOURNMENT**

**Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Christopher Hickey absent). [8:00 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2013

**ITEM 2 SUBDIVISION AMENDMENT – JEFFREY AND JANE MASON, Map 27, L3.002, Urban Residential zoning district**

**FINDINGS OF FACT**

**CHAPTER III - SUBDIVISION, SECTION III - PRELIMINARY PLAN**

The Planning Board, following review of the Subdivision Amendment Application, makes these findings based on the Subdivision Amendment Review criteria found in Chapter III, Section III – C. Preliminary Plan Review.

**C. PRELIMINARY PLAN REVIEW**

2) The Planning Board shall include in its review the following general and specific requirements that the development has 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 amendment is a lot split to add an additional single-family house lot. The proposed lot has road frontage on both Libby Avenue and Shepards Way and meets the minimum lot standards in the Urban Residential zoning district. The lot will be served by public water and sewer and underground utilities.

*Finding: The proposed subdivision amendment to the Jeffrey and Jane Mason Subdivision conforms with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.*

- 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 driveway for the single-family dwelling will be installed off Shepards Way, which has been constructed to the Town’s urban access road standard. Shepards Way is accessed off Libby Avenue. Both Libby Avenue and Shepards Way have the capacity to handle the additional traffic generated by the single-family dwelling unit.

The site distance at the intersection of the new driveway and Shepards Way exceeds the requirements of the Land Use and Development Code.

*Finding: The proposed subdivision amendment will not cause congestion or unsafe conditions with respect to use of 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.

The single-family dwelling lot will be served by underground power, cable, and phone lines from Shepards Way. Household trash and recyclables removal for the residential subdivision lots will be through the Town's contracted residential waste hauler. Fire protection for the single-family home will be served by a fire hydrant located on Shepards Way. No changes are proposed to the subdivision lots' utilities, waste removal, or fire protection requirements.

*Finding: The proposed subdivision amendment will not place an unreasonable burden on the ability of the Town to provide municipal services to the new single-family residential lot.*

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

The single-family lot will be served by public water from a Portland Water District watermain stub located off a watermain located in Libby Avenue. The location of the existing watermain stub is shown on the amended subdivision plan.

*Finding: The proposed subdivision amendment provides for sufficient water supply for the present and future needs of the single-family dwelling lot.*

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The single-family lot will be served by public sewer from a sewer stub located off a sewer main located in Libby Avenue. The location of the existing sewer stub is shown on the amended subdivision plan.

*Finding: The proposed subdivision amendment provides for adequate sewage disposal for the present and future needs of the single-family house lot.*

- f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

The proposed lot split will support a single-family home and associated amenities. The single-family home will be served by public sewer and water, with stormwater water from the site being allowed to sheet flow off the site.

*Finding: The proposed subdivision amendment will not result in undue pollution of air, 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 use of the proposed lot is to support a single-family home with associated amenities. The remainder of the lot will be vegetated with both lawn and wooded areas.

*Finding: The proposed subdivision amendment will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition will 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.

The subdivision is not located in the Town's Shoreland Overlay District.

Stormwater from the site will be allowed to flow from the northern third of the site southerly to the shared property line with Shepards Way. No stormwater infrastructure is proposed to be constructed.

*Finding: The proposed subdivision amendment 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 vegetation of the single-family lot is a mix of lawn and wooded areas with the topography being predominately flat.

The eastern half of the lot is predominately lawn area with the exception of three trees located along Libby Avenue. The western half of the lot is predominately wooded area with a mix of evergreen and deciduous trees.

The lot does not have any known historic sites or rare or irreplaceable natural or manmade assets located on it.

*Finding: The proposed subdivision amendment will not affect any scenic or natural beauty of the area, scenic vistas, historic sites 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.

*Finding: The new subdivision lot is required to pay the Recreational Facilities and Open Space Impact Fee as part of the 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.

*Finding: The proposed subdivision amendment will not create any open space or recreational land and facilities. A homeowners' association is not required to be formed.*

**CHAPTER III - SUBDIVISION, SECTION IV –FINAL PLAN REVIEW**

**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.

*Finding: This is an amendment to an approved plan and requires only a subdivision amendment 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.

*Finding: This is an amendment to an approved plan and requires only a subdivision amendment approval.*

**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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
3. That all relevant conditions of approval from the original subdivision and subdivision amendment approvals shall remain in effect;
4. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
5. That these conditions of approval must be added to the subdivision plan and the subdivision 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 subdivision plan shall be returned to the Town Planner.