



Town of Gorham
May 13, 2013
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
CHRISTOPHER HICKEY, Vice Chairman
JAMES ANDERSON
GEORGE FOX
THOMAS HUGHES
MELINDA SHAIN
COREY THERIAULT

Staff Present:

DAVID C.M. GALBRAITH, Zoning Administrator
THOMAS M. POIRIER, Town Planner
NATALIE BURNS, Jensen Baird Gardner & Henry
CAROL WHITE, Acting Clerk of the Board

Edward Zelmanow, Chairman, called the meeting to order at 7:00 p.m. The Clerk called the roll, noting that all members were present.

APPROVAL OF THE APRIL 1, 2013 MINUTES

Tom Hughes **MOVED** and Melinda Shain **SECONDED** a motion to approve the minutes of April 1, 2013 as written and distributed. Motion **CARRIED**, 7 ayes. [7:02 p.m.]

ANNUAL ELECTION OF OFFICERS

Nominations for Chair were opened.

Mr. Hughes **MOVED** and Mr. Hickey **SECONDED** the nomination of Mr. Zelmanow for the position of Chair; There were no further nominations.

Motion **CARRIED**, 7 Ayes

Nominations for Vice Chair were opened.

Mr. Fox **MOVED** and Mr. Hughes **SECONDED** the nomination of Mr. Hickey for the position of Vice Chair. There were no further nominations.

Motion **CARRIED**, 7 Ayes.

Committee Members:

Mr. Zelmanow felt we could keep the same appointments unless someone would like to switch with a reminder that any Planning Board member is welcome to attend committee meetings.

COMMITTEE REPORTS – Mr. Theriault reported that the Ordinance Review Committee has not met since the Board's last meeting. Ms. Shain reported that the Streets and Ways Subcommittee has not met.

CHAIRMAN'S REPORT – Mr. Zelmanow said that there is no Chairman's report.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier reported that staff is moving forward with finalizing Plowshares Community Farm application of Steven and Amy Bibula, for a farm stand at Plowshares Community Farm at 236 Sebago Lake Road. Mr. Poirier also said we also received an item that is not on the list. It is Mega Industries that the Planning Board approved in February and the PB had allowed staff to review a small increase in the building expansion and they are proceeding with that review. We sent out notice on Friday, May 3 and are currently waiting for the abutter comments to expire and then move forward with that approval. There were no questions from the board about Administrative Review projects.

ITEM 1 CONSENT AGENDA: SUBDIVISION AMENDMENT – Timothy Acres Phase III by Lisa Waters.

Mr. Hickey MOVED and Ms. Shain SECONDED a motion for the item to be removed from the Consent Agenda and take it up for discussion. Motion CARRIED, 7 Ayes

Mr. Poirier gave an overview of the project explaining that this application is more for clarification. It was approved as a cluster subdivision a number of years ago, and there is a parcel of land called joint ownership on the plan. As part of a clustered subdivision, the Planning Board is allowed to set the setbacks associated with it. At the time the Planning Board did not set setbacks associated with the subdivision. When lot 6 was moving forward with selling the proposed lot, it was noticed that the building front and side setbacks of the current Rural zone which when the subdivision was approved was called Rural and Farm district. This is on for approval just to identify the setbacks in the subdivision and allow the person going through the sale of the lot 6 to proceed.

Mr. Hickey asked Mr. Poirier if there were no setbacks specified on the original plan, the assumption would be that they would have the setbacks for the zone at the time. Mr. Poirier said it would be the setbacks of the current district.

Mr. Hickey's question is why the setbacks were not being taken up by the ZBA which seems more appropriate given the nature of the issue. Mr. Poirier explained that because it is a clustered subdivision it allows the Planning Board more flexibility to look at the setbacks for the overall subdivision. He explained that this would be for the whole subdivision, not just this particular lot. Mr. Galbraith explained that there were a couple of small lots that looked like their setbacks were close in the subdivision but we haven't seen deeds or anything like that. Mr. Hickey explained his concern which is what a Clustered Subdivision is meant to be and that according to the LUC, "this shall not to be construed as granting variances to relieve hardship", which it seems like is what we are doing in this case. Mr. Galbraith explained that it would eliminate the particular setback issue for this lot. Mr. Hickey felt that personally he was all for this change, but it seems like the Planning Board is usurping the Board of Appeals.

Natalie Burns made some clarifications that when Cluster Subdivision language was put into state law several years ago, many towns did have provisions that purported to allow the Planning Board to establish setbacks that were different and usually less than what was required normally in the zoning district. A decision found that was improper so the statutory language was changed to allow it and so when you see the language that says this isn't considered hardship variance, that really why it's there. Please note that if they came in and did try to get a hardship variance for this it is almost certainly going to be treated as a self-created hardship so they wouldn't be able to get a variance. So in that case they either have to come back to get this changed or we have to go through an enforcement proceeding which would probably end up in a consent agreement that allowed them to keep it anyway. Staff felt this was probably the cleanest and the fairest way to do it since everybody would be able to take advantage of the same setbacks if you do it this way.

Mr. Hickey questioned why, if this is one issue for one property, why are we proposing to have two classes of new setbacks: one for setbacks adjacent to open space which would fall into that category and another to change all other lots so that the rear and side setback would be 10 ft as opposed to five, but we don't know of any other violations, so why are we (or they) proposing that change? Mr. Poirier explained that it was discussed that the 5 foot setback around the open space is because it is open space and there are no houses or other structures abutting it, it seems that a 5 foot setback made sense only along that open space where it's abutting a parcel that can't be developed. When there are two lots that have potential structures you would want a little bit more distance between structures, and that's why it would be the 2 setbacks – 5 for the open space and 10 for the remainder. If the Planning Board wants to go with the 5 foot setback for all the lots, Staff wouldn't have any objection.

Mr. Hickey further explained that his question is why is it 5 feet for that lot to satisfy their needs, where currently it is 20 in the district and we are proposing to change all lots to 10 – did I read that correctly? Mr. Poirier said yes,

that is correct. Mr. Hickey asked if we want to maintain that buffer between the lots, why not maintain the 20 foot setback as opposed to changing it to 10 for all of their lots? Currently the setbacks are 50 ft and 20 ft. For this particular lot where it is located in the subdivision we are proposing to change them to 40 and 5 ft and for all other lots we are proposing to change them to 40 and 10. Why? This lot, Mr. Poirier explained, will have the 40 and 10 ft setbacks as well and will only has the 40 and 5 ft setback along the open space and that is only because you can't built a house there, so staff felt it was OK to go to that 5 ft setback, but where there are properties that abut other properties where a building could be present it should be 10 ft which is more consistent with other developments that the planning board has reviewed in the past regarding open space. Mr. Hickey said that was the answer he was looking for. So that number is to make it more uniform with the typical cluster setbacks. Mr. Poirier replied that is correct.

There were no further questions or comments from the board.

Ms. Shain MOVED and Mr. Hughes SECONDED a motion to approve the item that was on the consent agenda.

Mr. Zelmanow clarified that the motion was a subdivision amendment by Lisa Waters requesting approval of the cluster residential Subdivision front, rear, side setbacks on Map 58 Lot 30.

Motion CARRIED: 7 ayes.

ITEM 2: PUBLIC HEARING for Site Plan Amendment for Goodwill Industries of Northern New England located at 34 Hutcherson Drive.

Mr. Poirier gave an overview of the project that was last before us on September 15, 2011 and got approval for a wholesale sales outlet in an existing warehouse building and they constructed some parking associated with that to service the wholesale outlet. Since they have been opened it has come to their attention that they need to provide additional parking to serve that wholesale sales outlet and that is what they are proposing this evening. They have submitted waiver requests for 3 waivers. Two are requests to waive the requirement for the Ability to Serve for Water and Sewer disposal and then an off-street parking waiver as well. Staff has completed a review of the application and the applicant has resubmitted and most of the staff has been able to re-review the new information. We received revised comments from the Town Engineer this evening which will be distributed to the Board. We also have a draft set of Findings of Fact as well as Conditions of Approval for the Board's consideration this evening and we would answer any questions the Board may have.

The applicant's engineer, Mr. Curtis Neufeld of Sitelines, P.A., came to the podium and explained that Goodwill was before the Planning Board about 2 years ago. They originally proposed this facility as a warehousing and distribution facility and at the time Goodwill thought they would try 5,000 sf of wholesale space and basically sell by the pound. Based on the location and type of outlet they were not really anticipating a large demand for that outlet. Their original plan included a drive in that ran parallel right up to the building and the plan was actually approved with 12,880 sf on the building. Within a month, we scaled that back, eliminating the drive that came right up to the building but doing the parking that has been built, which reduced the total impervious area added to the site to just under 6,000 so it really cut the original amount down by half. Today, as noted, they have exceeded their expectations and people unfortunately have been parking along the drive aisle and on the grass, so we are proposing to add about 28 more spaces by bumping it out and as you will see in your packages there is a gray area here where we will expand out by the drive aisle that has a slope with a retaining wall, that will be between 4 and 5' high with parking spaces right behind it subsequent to the initial design, it was determined to go with the larger block wall, which will be quicker and easier to install and I think addressed some of the comments from the Peer Review engineer. There will be no additional lighting required as you will see on the lighting plan. Based on staff reviews, we added some crosswalks and signage where pedestrians may be crossing to our plan. I have read through the staff notes, and we will address the items noted by the Peer Reviewer.

Mr. Zelmanow asked for questions from the Board:

Ms. Shain questioned whether this will address their needs now and Mr. Neufeld stated that yes, it should take care of the problem since it will more than double the present number of spaces available. Mr. Zelmanow questioned how the lighting will work and why there will not be lighting over the new spaces. Mr. Neufeld stated that the existing poles cast enough light to provide adequate lighting for the new spaces. Ms. Shain asked what the hours of operation will be and Mr. Neufeld stated that they will be open from 9 am to 6 pm which will be still dark in the winter time, but they had revisited the lighting and based on the fixtures that are in place they are averaging around .2 in the stalls which is acceptable.

Mr. Hickey questioned why the spaces will all be striped except for the spaces on the northern side – does that indicate no parking so that pedestrians can go through? He feels that the spaces to the north should be striped as well so that someone walking there wouldn't have to go between 2 parked cars. Mr. Neufeld explained that this is the Employee Entrance door and not the retail outlet so it wouldn't be used as much by customers as it would be by employees. However, Mr. Hickey continued, if someone were arriving to the site for the first time, they might not know that and if you eliminated one parking space to provide safe access so someone could cross there is justifiable.

He also questioned the width of the spaces 9 x 18.5' and mentioned that in the Land Use Code the definition of a parking space is specified as an area of no less than 200 sf which would be 10 x 20'. Mr. Poirier explained that there another spot where it says parking stalls will be 9 x 18' and there is a conflict in the code about the size.

Mr. Hickey was still concerned about the proximity of the end of the spaces to the edge of this driveway, because it seems this area would function more like a road than like a driveway and there is no area between the end of the parking stall and the edge of the road, even on the other side. There is a little bit of buffer between the edge of the travel way of the road and the entrance striping of the parking. Is there a way that could be moved perhaps 4 ft out to provide an area for pedestrians to walk behind the cars without being in the roadway? Mr. Neufeld explained that this is not really a road that it just goes to the back of the building where Goodwill trucks would be loaded and may go up to Hutcherson, but it is not a road that goes from point A to point B so the traffic there should be very minimal, so didn't think there would be any safety concerns from traffic. A typical drive lane might be 24-26 ft and this one happens to be a little bit wider. Mr. Hickey's concern is that it is not an isolated parking area and as infrequent as it may be, there is still traffic using that road for ingress and egress to the site. Mr. Fox asked if trucks use this drive to access the dock area. Mr. Neufeld stated that yes, but the primary access for trucks will be from the street to the other side. There would be trucks that would circulate through that area, but I don't know how often and we are putting up signage at each end indicating that pedestrians may be crossing.

Mr. Zelmanow asked if there was a reason why there should be "No Parking" signs on the remaining grass areas? If these new spots fill up, won't the customers resort to just parking on the grass again? Mr. Neufeld stated that on the South side there is a retaining wall / guard rail that wraps around the corner and there is very little grass left in that area. As you come out towards the North, the terrain on one side falls off fairly rapidly and there is some on the other side. Based on discussions with the client, doubling the parking should alleviate the issue of people parking on the grass.

Mr. Zelmanow mentioned that on the plan there is a note to remove the guardrail to accommodate new parking. Is the plan showing the portion of the guardrail already removed or is there more of the guardrail that is going to be taken out. It doesn't show exactly how much of the guardrail is coming out. Mr. Neufeld stated that there is a little bit behind the spaces on the southern end where the guardrail is kind of underneath the screening and there would be some that would have to come out to provide for the southerly 3 or 4 spaces. Mr. Zelmanow asked if the plan needs to show just that portion of the guardrail that is coming out instead of just a reference to the whole thing? Perhaps it should say remove portion of the guardrail. Mr. Neufeld agreed that the plan could be more definitive to specify that.

Mr. Hickey mentioned that he cannot find any delineation on the plan for the wetlands that are mentioned in the Staff Notes in regard to Mr. Neufeld's comment about the retaining wall moving closer to the resource so it is

hard to tell to what extent that would be impacted by a move. Mr. Neufeld stated that the delineation was done with the original development and the wetlands are off the parcel that is actually owned by the applicant and is below the toe of the slope. The retaining wall is a minimum of 2-3' up the toe of the slope so we were not going to be anywhere near disturbing the wetland so there was no need to update the wetlands. Some pictures were taken showing where the edge of the wall would be and by measuring straight up from the edge of the road they are well away from any wetlands and there would be no disturbance. Mr. Hickey stated that if all the wetlands are offsite, he didn't see a case for not moving it, if it is entirely off the site. Mr. Neufeld said that once you strip the grade and level it, you have some disturbance beyond the toe of the wall so we are being conservative and hate to get out there where we're having disturbance to or beyond the property line. We didn't feel we needed to go out any further because we were able to meet the standard geometry for parking and drive aisles using the proposed spaces at the end of the driveway and then build out from there to make sure we had adequate room for a wall and retaining guardrail.

Mr. Zelmanow asked if there were any questions or comments from the board. Copies of the peer review comments from the engineer were passed to the board so they could look them over. It will be at the boards discretion if these are minor things that can be take care of after the fact.

PUBLIC HEARING OPENED: No members of the public wished to speak.

PUBLIC HEARING ENDED:

Mr. Zelmanow asked if there were any additional questions or comments from the Board. Mr. Neufeld mentioned in response to the Peer Review Engineer's comments, they used the dimensions from the DEP and that is why there were no calculations in there.

Ms. Shain MOVED and Mr. Hughes SECONDED a motion to grant Goodwill of Northern New England's request to waive the Site Plan Submission requirements under Chapter IV, Section IX, Subsection H-Water Supply: submission of evidence of the adequacy of the water supply. Motion CARRIED, 7 Ayes.

Mr. Fox MOVED and Mr. Anderson SECONDED a motion to grant Goodwill of Northern New England's request to waive Site Plan Submission requirements under Chapter IV, Section IX, Subsection I-Sewage Disposal: submission of evidence of the adequacy of the wastewater disposal. Motion CARRIED, 7 Ayes.

Mr. Hughes MOVED and Ms. Shain SECONDED a motion to grant Goodwill of Northern New England's request to waive Site Plan Submission requirements under Chapter II, Section II, Subsection A.2-Off Street Parking: Submission to waive the total number of spaces required. Motion CARRIED, 7 Ayes.

Mr. Zelmanow asked if there were any further questions from the Board. Mr. Poirier said the Conditions of Approval have been shared with the applicant. Ms Shain asked if a slight change to the plan needs also to be made in the Conditions of Approval as well regarding the guardrail change? If not could staff please flag it on the plan when the Board is ready to sign the plan. It was agreed that it did not need to be in the Conditions but would be flagged on the plan when it was time for the board to sign.

Mr. Fox asked for clarifications on the removal of the parking space to allow for the crosswalk to end in an open space. Was that a change to which the applicant was amenable? Mr. Neufeld said the applicant would be amenable to that, but Mr. Zelmanow stated that he would rather not lose that spot since they were already under the requirement right now. Mr. Fox wondered if it made sense to carve out a spot for the customers to cross safely why wouldn't it make sense to have that for the employees also? So if it is a primary employee entrance why wouldn't they need the same protection.

Mr. Zelmanow noted that the beginning of the crosswalk starts between two spots and asked if there is a reason why the ending can't go between two spots as well, or at least have it being angled to be between two spots? Mr. Neufeld felt that this would not be problematic and they could probably get a 5 ft space lined up with that and shift the spaces a little to the north about 5 feet, stripe between the spaces, versus an entire 8 foot stall. Mr. Zelmanow asked if that would work with the Board and no objections were made. These changes will be on the plan .

Mr. Fox MOVED and Ms. Shain SECONDED a motion to grant Goodwill Industries of Northern New England's request for site plan amendment approval for an 4,836 square foot of new pavement to support an additional 28 parking spaces, at 34 Hutcherson Drive, Map 12, Lot 17.005, in the Industrial zoning district, with Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 Ayes and 1 Nay (Hickey)

ITEM 3: Preliminary and Final Subdivison approval for Samuel Strumph, Sr. for a 2-lot subdivision at 393 Mosher Road.

Mr. Poirier gave an overview of the project that was last on the agenda at the April meeting. At that meeting there were a number of items that were addressed by the board. One of them was the net residential density calculations that needed to take the 15% of the land area out. The applicant has done that and revised the plans and identified the base foot elevation on the plan at 112 ft, which is different than the contour lines so that it is easily discernible on the site plan. The applicant has provided test pit information regarding the septic system location and has submitted a waiver request for the septic plume analysis for the lots as well as a waiver request from the planning board policy to require preliminary and final approvals at separate meetings. Staff has provided a draft set of findings of fact and conditions of approval for the board's decision this evening. Mr. Zelmanow turned the meeting over to the applicant and his representative. Mr. Strumph and Mr. Toothaker felt they were all set. Mr. Zelmanow asked for questions or comments from the board. Ms. Shain questioned whether the Financial letter from the applicant saying he was able to perform is considered sufficient or did we need something from a bank. Mr. Poirier explained that they type of Financial letter is dependent on the type of improvements required for the approval. If there are a lot of items as part of the approval that require a large amount of capital then typically the board requires something from a financial institution showing that the applicant has the capital to complete the improvements where there are less requirements for large amounts of capital, we have seen applicants submit letters saying that they have the financial capacity to complete the project. Mr. Zelmanow asked if the applicant has to submit some kind of bond or anything. In this case, Mr. Poirier stated, it would be limited to paved aprons and would be limited to the improvements required to be posted. He verified that in this case we are not concerned about funds to complete the project because of the size of the project and Mr. Strumph's project would have limited expenditures, so his letter will be fine. Mr. Hickey asked about a bond on the existing water main, for the work on Mosher Road. Mr. Poirier explained that will be handled as part of their work through DOT and the Public Works Dept doesn't oversee driveway permits or street opening permits in this section of road. Mr. Anderson asked if the applicant is required to tie into the sewer and Mr. Poirier explained that there is no way to tie into that force main. Mr. Theriault asked if they could tie into the manholes and what the definition is for when and where they can tie in or not tie in. Mr. Poirier said it is where PWD will allow them to tie in. And, if they have the ability to tie into the sewer system, the town would require them to do it.

PUBLIC HEARING OPENED: No comments from the public
PUBLIC HEARING ENDED

Mr. Zelmanow asked if we can get the requests for waiver amended by the applicant with the reasons why they need the waiver because they were not included in the application. Mr. Poirier said the applicant can amend their requests for waiver and filed as part of the record. Mr. Zelmanow stated that we have two waiver requests:

Ms. Shain MOVED and Mr. Anderson SECONDED a motion to grant Samuel Strumph, Sr.'s request to waive the Subdivision Submission requirements under Chapter III, Section III,

Subsection B, 16: Nitrate Plume Analysis due to the fact they are providing public water from Mosher Road. Motion CARRIED, – 7 ayes.

Mr. Hughes MOVED and Ms. Shain SECONDED a motion to grant Samuel Strumph Sr.'s request to waive the Planning Board's policy of granting preliminary and final approvals at separate Planning Board meetings. Motion CARRIED, 7 ayes.

Mr. Poirier said the conditions of approval have been shared with the applicant and applicant is OK with the conditions. The Board is OK with the conditions as well.

Ms. Shain MOVED and Mr. Anderson SECONDED a motion to grant Samuel Strumph, Sr.'s request for preliminary and final subdivision approval for the Mosher Road Subdivision located on Map 31, Lot 6, in the Suburban Residential (SR) district and the Stream Protection Sub-District, based on Findings of Fact and conditions of approval as written by the Town Planner and renumbered by the Planning Board. Motion CARRIED, 7 Ayes.

ITEM 4 Private Way Review. Sarah Angeltun, Applicant, proposes a 325' gravel private way constructed to the Town's 1 lot private way standards on 8.1 acres off Spiller Road, located on Map 79 Lot 12 situated in the Rural District.

Mr. Poirier gave a brief overview of the application. This is the first time the applicant has been before the board. It is for a 1 lot Private Way. The plans have undergone a couple of revisions and have addressed all staff comments. We have provided a draft set of Findings of Fact and Conditions of Approval for the Board's consideration this evening. Staff will answer any questions the Board may have regarding this project.

Andrew Morrell, BH2M, the applicant's engineer explained that the applicant is requesting approval for a gravel private way on 8.1 acres off Spiller Road that is approximately 325' long to serve one lot built to the one lot standard, 12 ft wide and 2 ft shoulder on either side. Very similar to a driveway. Drainage is all handled with a vegetated ditch on either side of the road, directed to the end of the road where it is put into a level spreader.

Mr. Hickey asked Mr. Poirier if a private way could ever change title so that the lot which it serves has different ownership than the private way itself? Yes, it could. Therefore, Mr. Hickey continued, if the level spreader at the end of the road, is currently outside of the private way but is integral to the function of the erosion sediment control of the private way, it would be appropriate to include the level spreader if in the event that ownership transfers. Mr. Morrell stated that the fee ownership is staying with the lot and the applicant doesn't have any intent on selling the private way or developing the lot further, but if the board would like to extend the paper street another 10 ft we could do that and keep the level spreader on the same ownership. Mr. Theriault asked for a definition of a driveway and a private way – what is the difference? Mr. Poirier stated that a private way is needed to give the lot legal street frontage which a driveway cannot do.

PUBLIC HEARING OPENED: No comments from the public
PUBLIC HEARING ENDED

Mr. Poirier stated that the Conditions of Approval have been shared with the applicant and the applicant has approved them.

Ms. Shain MOVED and Mr. Hickey SECONDED a motion to grant Sarah Angeltun's request for approval of a 325' private way constructed to the Town's one-lot private way standards on 8.1 acres off Spiller Road, located on Map 79, Lot 12, situated in the Rural zoning district, based on the Findings of Fact and with the conditions of approval as written by the Town Planner.

Discussion: Mr. Hickey asked if the 325' private way is that the ROW length or the road length? Mr.

Morrell said that is the travel road length, so that will remain 325'. Ms. Shain reminded Tom to flag the change on the plan to include the level spreader. Mr. Morrell asked if the board would mind if they moved the level spreader to remain in the right of way. Mr. Hickey asked that they could also add a diversion berm because of the velocity of the water coming off the road. These changes will be made on the final plan and flagged to show the changes.

Motion CARRIED, 7 Ayes.

10 MINUTE RECESS

ITEM 5 Special Exception / Site Plan Review. Merritt Bennett and Pamela M. Bennett Living Trust request approval for a Multi-Use Social Institution at 463 Fort Hill Road on Map 66 Lot 1 in the Rural District.

Mr. Galbraith gave an overview of the project explaining that the applicant is seeking approval for a Multi-Use Social Institution and proposing approval for a motocross track, existing motocross school, snowmobile grass drag events and associated parking and camping on the site. It is a 62.48 acre parcel located at 463 Fort Hill Road on Map 66 Lot 1 located entirely in the Rural District with street frontage on both Fort Hill Road and Mighty Street. The property currently has a Planning Board approved Indoor-Outdoor Paint Ball Facility. It is our understanding that the Indoor paintball is no longer in use. There is also an existing disk golf facility that also came before the Planning Board. They are seeking after-the-fact approval for an existing dirt bike track and riding school, and construction of a 600 sf accessory building and site plan approval of a proposed motocross race track for racing events, proposed snowmobile grass drags racing events and parking for up to 200 people. Mr. Galbraith then turned the meeting over to Nancy St. Clair of St. Clair Associates, the applicant's engineer.

Ms. St. Clair had a rendering that showed the existing and proposed uses for the property which she hoped would help put things in context during the discussion. Ms. St. Clair explained that the property is actually owned by the Pamela M. Bennett Living Trust, Merritt Bennett is the son, who owns an abutting property and is the applicant. Ms. St. Clair gave an overview of the project pointing out the different areas of discussion. There is a residence on the property which is the original family residence which will remain the same as well as a 600 ft building which has a stop work order on it and an existing track area built by Mr. Bennett for his use with his son and his friends as part of his use of the property. There is also a motocross training area used for training people on the very basics of how to ride motorcycles and is part of the motocross riding school. This is part of the after-the-fact site plan package. The area for the snowmobile grass drags is used in the late fall until the snow falls. The motocross track area will be reviewed by a professional who helps design and construct the site within the confines of the area set aside on the property. The track area itself is a 30 ft wide area and is typically scarified (the topsoil and grass are removed) and it is kept light and fluffy because you do not want a compacted gravel track, so regarding impervious areas, this type of area will be open and able to infiltrate rain water and would expect lower levels of run off because of that. There is not a formal grading plan associated with the plans because they may vary as time goes on and want to have the flexibility if a turn or jump or other component needs to be modified, then there would be sufficient information in the perimeter area that would address it and the details within the area would have some flexibility in order to allow the ongoing maintenance and monitoring of the track itself. Ms. St. Clair pointed out the area where the gate would be and bikes would line up for competitions, which located in this area to fit into the natural terrain which will allow the existing buildings and terrain to help buffer any noise from the start-up of the racing. The natural terrain of the property actually is very beneficial in noise attenuation which is a concern from staff and abutters. A noise consultant has provided an acoustic feasibility study which has basically indicated that this project can meet the ordinance standards for noise provided certain standards are instituted as part of that program. This is the very beginning of this process with the Planning Board, Planning Staff and Peer Consultants and it is understood that one of the key issues in moving forward is noise at the Municipal and state levels. This will be reviewed by the DEP as part of a Site Location permit. It would be beneficial to schedule a

site walk with the Planning Board to talk about the programs and the natural terrains on the site and the benefits that will provide.

Mr. Zelmanow asked Ms. Natalie Burns, JBGH, to explain how we should review this application. When this application went before the ZBA for the riding school and the existing dirt bike track, it was indicated that this was purely for private use by the applicant, the family and friends. The ZBA classified the project as a Multi-Use Social Institution. Mr. Zelmanow questioned whether money is going to be charged for use of the motocross race track and snowmobile grass track, and, if it is, then this project would appear to be more of a commercial undertaking. If it is a commercial operation how should staff incorporate what the ZBA did into what the Planning Board is trying to review here.

Ms. Burns said she did review the ZBA materials and the ZBA was aware that this was going to be part of the application and that fees were going to be charged for the motocross facility so it's fair to assume that was included in their decision even though they didn't specifically address it. As far as the snowmobile drag is concerned, while that was not raised before them, I do think it is a safe assumption that if they accepted the motocross use with a charge attached to it, they probably would have accepted the snowmobile drag. The one element of this that is not addressed in either the application to the ZBA, or in the ZBA's decision, is the camping use. The Code Enforcement Officer has to look at the camping use and determine whether that is allowed as part of this application. Mr. Zelmanow asked if the miscellaneous site activities like mobile vendors would need to be looked at by the CEO as well? Ms. Burns said that mobile vendors certainly needs to have the Code Enforcement Officer take a look at it as well because that was not something that was specifically addressed in the application to the ZBA. Anything that was addressed in the ZBA application granted the appeal, so the motocross and the charges for that have been approved by the ZBA as a use, but anything that wasn't addressed in the application, the Code Enforcement Officer has to take a look at and make a ruling and if the CEO finds it's not an allowed use, that would have to be appealed to the ZBA and decided by the ZBA and not by this board.

Ms. St. Clair clarified some information about the camping term. There is information in the application about this. Typically riders who compete in these types of events have camper type units. They also have trailers that they haul their bikes on and that type of thing. What has been discovered in the other two facilities in the state is that when people come to these events, they may end up arriving at sporadic times and if you do not have your facility open and available when these folks arrive, they end up stacking up and waiting. What Mr. Bennett has proposed to do as part of his program is on the Saturday afternoon before an event day, which is every other Sunday during the season equating to approximately 13 events in the best years, is to open up the facility for those people who are traveling and would potentially want to come and stay one night overnight to get their bikes set up and that type of thing. We are not talking about a weekend long event, we're not talking about vehicles that would arrive on a Thursday night and stay through the Sunday competition. There are no hookups, fire pits or lighting proposed at this point, so this is simply an opportunity for folks who are traveling with those types of self-contained vehicles to stay and be prepared for the event. Mr. Zelmanow asked Mr. Poirier what the definition of camping is. Ms. Burns said it is under trailer park and stated that it is "an area occupied or designed to be occupied by trailers for seasonal use only from May through October", so there is no minimum or maximum stay as long as it occurs between May and October. That is what the town has for a camping use, and recently had an enforcement case (not anything to do with this property) and what we had were campers that parked on the site and it was found to fall within the definition of trailer park by the court.

John Shumadine of Murray, Plumb & Murray, the applicant's legal counsel, came to the podium and stated that they aren't proposing camping as a stand-alone use, but camping as well as the food vendors as an accessory use as defined in the ordinance as "a use customarily incidental and subordinate to the principal building or use located on the same lot with such principal building or use." So our argument is – and we had a discussion with Code Enforcement prior to this and I thought that's the understanding we had with the CEO -- that basically the camping is an accessory use and is incidental to the primary use of the motocross as is the food and vending which is customary in these types of tracks. Therefore, we're not looking for approval of a campsite as a campsite

because no one is going to be camping except in connection with these events and only for one night. So in our analysis these would fall under the Accessory Use definition and therefore be allowed.

Ms. Burns noted that Gorham has a free standing ordinance that requires that campgrounds have permits and doesn't think there is an exception for camping that is an accessory to another use. The Code Enforcement Officer will have to look into that.

Mr. Shumadine said he felt we were very early in the process and this seems like something we can discuss between the town attorney and the Code Enforcement Officer. Mr. Zelmanow stated that the Planning Board is just looking to bring up all the issues that they are seeing within this. Mr. Shumadine again stated that he felt this was something we can make more headway with Code Enforcement first and then bring it back to the Planning Board once everyone is clear about the issues.

Mr. Hughes asked if the accessory use of campers coming in for a day is a freebee or is that part of the business? He said he would assume that if he is going to have his camper there for the night, and has a campsite and a trailer or whatever parked there, that he'd have to pay someone to let them be there. Are you saying that is free? Ms. St. Clair said that Mr. Bennett is saying yes it is a freebee and clarified that they are not providing hookups or fire pit areas or anything like that. What the applicant is offering is a place for these vehicles to stay in advance of an event that will not be anything more than a grassed space. If you look at the aerial photo, the areas that are set aside are just black lines on the photo. The purpose of this is to show that it's just a field where the applicant could put campers, with a gravel loop provided for access in and out, but when the competition has ended and the folks have left, it is just a field.

Ms. Burns said she just wanted to note that she agrees with Mr. Shumadine that this needs to be appropriately addressed to the Code Enforcement Officer, but did want to note that in the earlier case that the town had, they were simply providing an area for those campers to park in, they were not providing hookups and the court did find that was a campground as described under the freestanding ordinance.

Mr. Zelmanow said in looking at the whole application, there seem to be many different areas that are going to need to be addressed at some point, and since the Site Plan Review and Standards gives us all the different aspects that have to be met, it's probably best if we look at each one as we go along and see if there are any issues pertaining to that item. If there aren't then great – we can move on to the next item. And where there are issues, then we can address them, so as we are going along if we find that one of the criteria is met, we can note that and have that become our finding of fact later on down the road.

Ms. Shain had a question regarding the Zoning Board decision. She asked if in rereading this, has the ZBA said that a commercial dirt track that the public will use and the grass drag is a permitted use in the rural zone regardless of whether or not more than 200 trips are generated, because it is hard to fathom that there would only be 200 trips. It doesn't look like the ZBA dealt with that question but more the nature of the use, so wondering if that is not on the table for us or if that's part of what we also need to review.

Ms. Burns said that the Planning Board is not reviewing whether the Commercial Dirt Bike track is an allowed use, but the Board of Appeals specified that it did require site plan review and that is where the vehicle trips become an issue, so you are reviewing the vehicle trips but not the use itself.

Mr. Zelmanow stated that not only would they have to review Chapter IV Site Plan Review Standards, they would look at Chapter II Performance Standards with regard to air pollution, noise, and buffering. Mr. Zelmanow felt staff should start with the Performance Standards because they are going to be key areas for us to look at and questioned if there has been any air study done relating to air pollution like exhaust coming from the bikes? Ms. St. Clair said that no, they had not completed any air study. She also said that with regard to dust control, there is a program that was discussed in the narrative regarding irrigation so that dust would be kept down but would have to investigate exhaust requirements further. In the past there have been air quality experts come in who were able

to report what can be expected to be discharged into the atmosphere and based upon the prevailing winds, where that exhaust might be expected to travel. So we will probably need to see that information on the application. Mr. Zelmanow asked the board for comments on air pollution.

Mr. Hickey had a general comment that since the town had hired a consultant to review the traffic and the noise and to review the work of the applicants sub consultant then wouldn't that be the case for these other items, such as air quality also and the town retain a Peer Review Air Quality assessment? Mr. Zelmanow said yes we would do that once the applicant provides the report from their air quality expert then we would have it reviewed by our Peer Review expert as well.

Ms. Shain stated that what we are seeking in a report is someone who could speak about other tracks of similar size, know what these things generate and what is likely to be the case in this particular track for the neighbors and the community since motorcycles tend to not run as clean as cars. She would like to know if motor and dirt bikes are different than other types of motorcycles. Mr. Hickey said that there are 2 levels that are regulated and mentioned that the exhaust from a back-up generator at a commercial facility would be regulated by the EPA and a permit would be needed. Ms. Shain questioned if we want a more general type of review that is part of the ordinance. Mr. Zelmanow said yes that is what we are looking for. Mr. Hickey then said that even if this type of use isn't regulated by EPA, then we would still want to review that? Mr. Zelmanow said yes and also we would want to have noise assessment – would this be only the noise generated by the bikes and would it take into account noise from spectators or anything else that might be taking place. Ms. St. Clair said the noise feasibility study that was done was just looking at the bikes themselves. Mr. Rand, the town's peer review consultant has reviewed Mr. Ambrose's study and there have been a couple of rounds of comments back and forth. We do expect that there will be continued communication between both the experts on noise as things move forward and certainly your question has been raised by one of the staff memoranda as well so that would be part of the discussion between the two professionals with regard to that piece of the program. One other thing Ms. St. Clair wanted to point out regarding noise is that the evaluation of the snowmobiles was not conducted because at the time the evaluation was being done it was under snow cover conditions but we do understand that has to be evaluated and has to be part of the analysis and taken into account as part of the study.

Mr. Hughes noticed that there will be no audio or speaker system. How will that work. Ms. St. Clair has spoken to Mr. Bennett about that and one of the things that is apparently done at some of the other facilities is that there is an elevated finish line area and typically the race information is actually posted on a large piece of paper on that area, so there is no spectator announcements regarding who's who or what's what or anything like that. It is a pretty close knit community and most riders know who is competing in what class so that they can gauge their schedule by who's out there on the track at the time. So that is why there will be no PA system or narration or anything like that. Mr. Hughes mentioned that pedestrian safety and crosswalks were a concern in another project and this seems like it could be a major issue with this application and definitely needs to be addressed. Ms. St. Clair mentioned that she has had discussions with the applicant about how this would be controlled and as mentioned in the application materials, the parking spaces themselves are typically cordoned off with grade stakes because basically it is just the lawn area. The access itself is 30' wide which is oversized as a typical roadway is 24', so we do have some provisions for areas where pedestrians could easily maneuver through the area and it will be a heavy pedestrian type area and the people who will be coming to these events do understand that. There's a fair amount of pedestrian activity and to propose a sidewalk or anything like that through the field area would not be appropriate. But we can certainly do some markings with grade stakes to identify more protected areas for those folks. Mr. Hughes asked if they run rain or shine and Ms. St. Clair suggested that he speak with Merritt about that, but they do not the track to be muddy as it's not good for the riders, so during rain days an event would not occur. As mentioned in the presentation, these events are scheduled for every other Sunday, so 2 Sundays a month for the period beginning roughly mid-April to end of October and at that point the snowmobile grass drags would come into play and would run until the end of November or potentially early December depending on when snow flies. These events are done typically during the summer months and are involving riders who have other things to do once Fall arrives and so those events tend to wind down fairly early in the Fall.

Mr. Zelmanow asked if access to the site would be from one entrance on Fort Hill Road and would be gated? Ms. St. Clair said yes and there would be a gate. So, Mr. Zelmanow continued, at other tracks with vehicles lining up on the side of the road and what can be done to keep them from lining up along Ft. Hill Rd and impeding traffic? Ms. St. Clair stated that is specifically the reason why overnight parking is allowed so that you don't have vehicles queuing up waiting to come in on the start day that morning. It is a very long access drive that comes in, the gates would be fully open during event day and they would be open from about noon on Saturday prior so you're not going to get that queuing and staging and waiting of people coming in. Mr. Zelmanow asked if the gate will be locked up Saturday night or once it is opened on Saturday will be open through the event. Ms. St. Clair stated that, for clarification, use of the track area would be controlled, but the access to parking would not so that people could come in and set up, but not use the track. Mr. Zelmanow then asked what type of vehicles would be entering – would it be mostly pick-up trucks pulling trailers. Ms. St. Clair stated that it would vary and could be someone with a pickup and a number of bikes in the back, it could be someone with a pickup truck and an enclosed trailer that hauls the bikes in them, some people have more advanced vehicles that would be something they could sleep in overnight.

Mr. Theriault mentioned the Fire Dept comment on a place for repairs. Is the pit area expected to be in these parking areas? Ms. St. Clair said that they don't expect there will be a pit area. In communicating with the applicant about that, it is not something that is a big activity in the track area, so he is not proposing to have a pit area. There wouldn't be any fuel offered for sale on the property. Basically the participants are responsible for their vehicles and equipment. Mr. Zelmanow asked if the riders would be bringing their own cans of fuel in and potentially doing oil changes or whatever might be done between events. Mr. Zelmanow said he didn't know what kind of hazardous liquids might be used and could see gas spilled out onto the grass -- that's why they were saying maybe they might need a concrete pad to take care of that. Ms. St. Clair suggested that perhaps some of the riders in the audience who are here in support of the application might be able to tell the board what is typical on a site of this kind. Mr. Zelmanow said he would also like to ask what type of bikes might be used because that goes toward the noise question as well. Ms. St. Clair added that the bikes will vary and the class and category of a typical race will identify what group of bikes will race. So if you look at the feasibility study that was done by Mr. Ambrose, he looks specifically at several different types of bikes. So there will be a variety because the different classes and competitions do have variety as well. The other thing to keep in mind is that these bikes have very small fuel tanks and I would expect that the equipment is ready to go by the time the competition happens, so I don't expect there to be a lot of work being done on them on the site.

Mr. Zelmanow asked Mr. Poirier if Public Works had taken a look at the application to see what type of impact this might have on Fort Hill Road. Mr. Poirier stated that the application was distributed to the Public Works director and no comments have been received from him yet.

Mr. Zelmanow then asked how many trips are expected on a race day? Ms. St. Clair said that is a hard question to answer when vehicles will be arriving on the day prior. Parking will be provided for up to 200 vehicles. Bill Bray has done an evaluation for traffic generation and that peak hour has been quantified at about 80 trips which is below the threshold for a DOT traffic movement permit. Mr. Zelmanow said he thought 80 trips was low. Ms. St. Clair said that no, once the riders are done competing they tend to leave so you wouldn't get that peak that you might have if this were an office environment and everyone left at the same time. Mr. Zelmanow asked about the internal circulation of the vehicles and what the turning radius might be, because of trucks pulling trailers, turning in and parking and then getting out if there are other vehicles right next to them. Ms. St. Clair said that those spaces are about 20 feet wide and 57 feet long so there is a fair amount of internal maneuverability within the individual spaces themselves.

Mr. Hickey asked for clarification on whether the concerns with motocross would be the same for grass drags. Ms. St. Clair said that she did think the grass drags would not have as many participants but they do not overlap at any time of the season and it would be on the same "every other Sunday" schedule.

Mr. Theriault mentioned that for the grass drags there would be leaves on the ground. Mr. Zelmanow asked how

they are proposing to abate the noise. Ms. St. Clair said that the setting is one of the key elements of how they fit in the land terrain. As part of the review on the noise study if there need to be some earthen berms or some other noise attenuation we would certainly look at putting those elements into the plan. We want to make sure that we don't have noise over the allowable level so that the terrain wouldn't provide a suitable noise attenuation.

Mr. Zelmanow asked about the hours the events normally run and Ms. St. Clair said they begin between 7:30 and 9 am for registration and everything is finished between 4 and 6 pm on Sunday. Ms. Shaine asked if there will be lighting for the people staying overnight. Ms. St. Clair said that in discussions with Mr. Bennett, they decided there would be no lighting for the overnight camping. The overnight parking isn't a key element of the experience – one of the staff comments recommended access points and they may look at putting a light in the area between the house and the barn area which will eliminate the intersection coming into that area, but at this point that would be the only thing they would contemplate if it is recommended that they provide additional lighting. Ms. Shaine was concerned if some of the people who come overnight may have children who may not pay as much attention to dark parking lots as they might when they get older. Mr. Zelmanow wanted to know if there would be facilities provided for the people staying overnight? Ms. St. Clair said that there would be Port-A-Potties at the facility that would be removed after the event. Mr. Hughes asked how close this is to the Little River – does shoreland zoning come into effect at all? Ms. St. Clair said there was no Shoreland Zoning on the property.

Ms. Shain asked about landscaping and screening in the parking area stating that it appears there will be none. Ms. St. Clair said that the only time this area will be used is during events and the remainder of the time it will be just a field area. Ms. Shain said she felt that some screening would be appropriate.

Mr. Zelmanow asked if Ms. St. Clair could just point out the abutter's property that is closest to the proposed motocross area and also the one closest to the snowmobile drag racing area? Ms. St. Clair pointed out that the rendering has yellow outlines which are the perimeter of the property, and the lighter yellow lines show abutting property owned by either Mr. Bennett or the Bennett Trust. The other immediate abutters are as follows: Phinney, Nicely, Donatelli, Cross, Pearson, Acker-Wolfhagen, Charette, Owen-Dewitt, Napolitano & Jackson.

Mr. Zelmanow mentioned his concern about spills, etc. and asked where the mobile vendors would be set up. Ms. St. Clair said there would typically be vendors that sold things like t-shirts and food but nothing that would be harmful to the environment.

Mr. Hughes asked if there would be any alcoholic beverages sold and Ms. St. Clair said there would be no alcohol sold. Ms. Shain asked about picnic tables, etc. and ms. St. Clair said there will be none.

PUBLIC COMMENT PERIOD

Mr. Clint Pearson, 43 Mighty Street, expressed his concerns about his neighborhood which is very quiet and tranquil with lots of wildlife around. This change would have a negative effect on them from the noise aspect and property values. He addressed items from the Land Use Code and concerns about how the ZBA came up with the definition of Social Institution for this property. He referenced the Wyle Laboratories study "California Off-Highway Vehicle Noise Study", and 2 Judgements on motocross racing: one in Flathead, MT and the other in Wayne County, OH. (These documents are incorporated by reference and available in the Planning Office)

Jeff Christianson, 236 Buck Street, asked if there will be an official public hearing and was told that yes there would be. He also asked if this issue goes to the town council after we have made our decision and Mr. Zelmanow told him that no, once we make the decision that the project has met the criteria as specified in the Land Use Code then the Planning Board will approve it. He also felt that the Board should look at the Recreational Vehicle Ordinance and wondered how this could possibly be considered. If the board allows this now you are setting a precedent for other places like this that could be even larger.

Pam Nicely, 110 Mighty Street is concerned with the noise and quality of life. Also concerned with the number of

months this would be operating. If we approve this for every other Sunday, then he could eventually run it more often than that. She has done research with several other motocross businesses and they are very noisy, most have a PA system as well but it is so noisy from the vehicles that you cannot hear it.

Steve Berry, 99 Line Road. Spoke about exhaust fumes and stated that these are not homemade bikes but are meeting federal emission standards. Grew up on Brackett Road and has been riding bikes since he was very young. We have lost all places to ride except paved places specifically made for riding bikes. This is a family event and is a way of life that a lot of people don't understand. There is always an inconvenience for someone else's hobby.

Chris Crawford, Stonegate Way – add to abutters list – not an abutter but will be impacted. Could hear the Spiller Road track, which was down in a pit, at her house every night and it sounded like they were in her front yard. A project of this size will desecrate the land and that part of Gorham. The sound will travel for miles, not just feet and all the people in that area should be notified. Can we have more than just abutters notified?

Donna Pastore, 15 Pastores Way. As a resident, an educator, parent and taxpayer I support this project. We strive to have “No Child Left Behind” and we, as a community, need to strive for No Child Left Inside and strive for ways for children to engage in physical activity. Even though they have many teams and sports activities around, not all children like team sports. Motor sports is a way to keep children active, outside and off the streets, out of the woods, out of trouble and off the taxpayers land. Bennetts facility is a good step.

David McCullough, 16 High Acre Lane. Very concerned that he did not receive the October ZBA notification. Agrees with Mr. Pearson. This is a commercial race track not a social institution. Have tolerated the current noise of weekend events, practices during the week, etc. but this goes way beyond that.

Jeannie Stephens, 203 Mighty Street concerned about the noise and that there will 200 vehicles on the property, possibly overnight, and then there are the things they have that have not been approved . This is not a social institution it is a business.

Steve Johnson, Spiller Road. It is his family's track on Spiller Road. When the track started up, the board adopted a rule regarding annoying noise in order to shut it down. This is about a lifestyle choice..


Merritt Bennett, 52 Mighty Street. Mr. Bennett said he never intended for this to go this far. He has been riding dirtbikes on his property for 34 years at night and on weekends and never had a noise complaint. He built a small track by the barn so he and his son could have a place to ride without being chased by the police. (If anyone leaves their property on a dirtbike the police are there in 5 minutes.) David Twomey shut him down and put a stop work order on this track instead of doing it the right way and making a noise complaint. Everyone who uses the track trucks their bikes there, including himself from his home on Mighty St so as not to mess up the field and have respect for his neighbors. But because of the disrespect he has gotten [from the town], he figures that if he cannot have his little track that he's ridden on for 34 years and has to spend \$50,000 to defend it, he might as well spend it on enlarging it as is proposed in this application. Wondered if all of us could realize that it wasn't a big deal to begin and just drop it and maybe he'd drop it also.



PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow mentioned that we have some correspondences from some residents of Gorham that will be entered into the record and are attached.


Robert Pettit Comments:

Printed by: David Galbraith
Title: Venday, May 13 2013 8:50:09 AM
Page 1 of 1

 Message Mon, May 13, 2013 8:37 AM

From:  Robert Pettit <rgpetit@gmail.com>
To:  David Galbraith

Subject: dirt bike proposal

Attachments:  Attach01.nml / Uploaded File 2K

Hello David,

When will the planning board be meeting regarding the proposal for this?

We're just over a mile away and on higher ground, and as someone who's had to put up with a similar mass 2-stroke noise and exhaust maker back in California, I'm deeply concerned.

Thanks.

Bob

--
Robert G. Pettit
Mobile: 207-650-9901
Email: rgpetit@gmail.com

Vetrano Comments:

Posted by: Tom Poirier
Title: Motor-Cross Racing on Fort Hill Road : VirtualTownHall

Monday, May 13, 2013 8:24 AM
Page 1 of 1



Message

Mon, May 13, 2013 8:29 AM

From: Richard Vetrano <rvetrano@live.com>
To: Tom Poirier

Subject: Motor-Cross Racing on Fort Hill Road

Attachments: Attach0.htm / Uploaded File

OK

Tom: I am a concerned homeowner on Mighty Street following information that I received regarding a proposed motor-cross operation on Fort Hill Road. Now that the Gorham Gravel Co has leased an extended term, Mighty Street has become a noisy, diesel fumed expressway for gravel trucks. Can't imagine what it would be like to add off-road motor cross racing within a mile of our home!! These are not street legal machines and have no or minimal exhaust noise suppression!! We hear occasional off-road machines travelling the Central Maine Power Lines and they are extremely loud - Just imagine dozens of machines all day, every day from April through October!!

Maine has millions of acres located in undeveloped regions of the state - This is where this activity should be developed. We are currently retired and located here for some level of tranquility - Hopefully, this won't be another reason to relocate again.

Sincerely,

Rich & Ellie Vetrano
184 Mighty Street

Henderson Comments:

Printed by: Tom Pairier
Title: Proposed Motocross @ Bennett's : VirtualTownHall

Monday, May 13, 2013 8:24:29 AM
Page 1 of 1



Message

Sun, May 12, 2013 9:53 PM

From: <jhenderson6@maine.rr.com>

To: Tom Pairier

Subject: Proposed Motocross @ Bennett's

Mr. Pairier -

My name is Jill Henderson, and I live at 120 Mighty Street, about 1 1/2 miles from the proposed motocross establishment at the Bennett's property at 463 Fort Hill Road. I am writing to you to express my concern over this proposal, primarily from a noise perspective. I believe if the exception is approved by the Board I will have a huge and negative impact on the quality of life the residents of Mighty Street currently enjoy. Currently, if I am sitting on my deck on a summer evening I can clearly hear four or five motocross bikes going for hours on end from Spillar Road, and that site is roughly three miles away from my house, so I cannot imagine the noise levels that would be created by dozens of bikes at events lasting all weekend long. Motocross noise is extremely repetitive, and most of the noise would likely occur on the weekends, when I try to enjoy life outdoors.

I am unable to attend the meeting tomorrow night (May 13), but I feel strongly enough about this to ask you formally register my strong opposition to the proposal. While I feel badly about arguing against someone simply trying to make a living in this horrible economy, I really would appreciate it if the Board would deny this request in the interest of maintaining our quality of life on Mighty Street.

Thank you.

Jill A. Henderson

Stephens Comments page 1:

Printed by: Tom Poirier
Title: Tom 5: Bennett Trust requesting approval : VirtualTownHall

Monday, May 13, 2013 9:23:24 AM
Page 1 of 2

Message
Sent: May 11, 2013 11:45 AM
From: 'Jeanne Stephens' <madlacy@maine.rr.com>
To: Tom Poirier
Subject: Tom 5: Bennett Trust requesting approval
Attachments: Attach3.htm / Uploaded File 4K



Dear Mr. Poirier:

My husband and I have lived at 203 Mighty Street for over two years. We love living in Gorham because we find our new location safe, quiet, and very pleasant. My husband has made a big decision to retire by July 1st.

Having said this, we must tell you we are very much opposed to the Bennett Trust requesting approval of a multi-use social institution. We think that a proposed parking lot for 200 or more vehicles plus drag racing of snowmobiles, dirt bikes, etc. is not in the best interests of our area. The noise levels would be much greater and the peace of our community on Mighty Street would be overturned by this proposal. The new traffic patterns would also affect us because some of the race participants would most likely travel on Mighty Street. It is already clear that we have a lot of traffic on our street, including large trucks early in the morning and late at night. We do not need more.

We do not think the location of this expansion of business is fair to us as residents. We chose our home because we were away from city noises and were able to go outside on our deck and relax, drink in the serenity of our surroundings. Having racing events on Fort Hill Road, with

Stephens Comments page 2:

Printed by: Tom Polier

Wednesday, May 13, 2013 9:23:24 AM

Title: Item 5: Bennett Trust requesting approval : VirtualTownHall

Page 2 of 2

loud speakers, racing noises, and exhaust from motorcross vehicles may benefit a limited amount of racing enthusiasts but will surely not be helpful to the majority of residents who look forward to peace and quiet at the beginning and end of our daily routine. I think my property may also be devalued by this expansion. My quality of life, as a person living with asthma, will be affected. I urge you to listen to these valid concerns and vote against this special exception and new plan.
Sincerely,
Jeanne & York Stephens

Phinney Comments page 1:

May 12, 2013

Dear Chairman and Members of the Gorham Planning Board,

My name is John D. Phinney and I am writing as an abutter to the proposed Multi-use Social Institution on land owned by the Bennetts at 463 Fort Hill Road, in Gorham. Although the Bennetts have been my good neighbors for many years, I cannot support this site plan application.

There are several reasons for my objection to this project:

- Noise generated by the existing dirt bike track.
- Noise which will result from the proposed motocross race track and snowmobile grass drag strip.
- Lack of buffering between these commercial uses and my adjoining residential property.
- Lack of a means of preventing trespass onto my property.

Noise and buffering are my major concerns. The parcel of land I own which is primarily impacted by this proposal was purchased by me from Fred and Pamela Bennett in 1987. It is comprised of mostly an open field situated on rolling terrain. Prior to my purchase, it had been the site of a proposed subdivision. Soil testing had been done, with results showing many buildable areas. If you look at the land from Fort Hill Road, it is difficult to determine where my land ends and the Bennett's begins.

On or about 2011, the Bennetts constructed a motocross/dirt bike track which, according to Gorham Town officials, is situated approximately 55 to 60 feet from my property line. There is no buffering and no attempt at noise control. I believe that the noise generated by this existing motocross track, as well as from the proposed additional motocross track and snowmobile grass drag strip will have an extremely severe impact on the economic value of my adjoining residential property, probably making it unsuitable for any future development.

In regard to my last objection regarding preventing trespass onto my property, while I have no problem with occasional usage by the public (the land is not posted), in the past the Bennetts have held commercial overnight functions in which my property has been used for vehicle parking and camping. Permission to use my land was never asked for or granted.

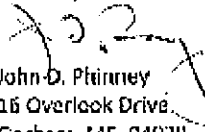
Phinney Comments Page 2:

While I am not even remotely qualified to address sound and noise levels in relation to the Town of Gorham code, I do know the noise being generated at the Bennett's existing motocross track is very loud. I live approximately a mile and a half, as the crow flies, from Bennett's existing track and I can hear the noise when the track is operating or practice is going on. I'm quite sure that there must be information on the web or available elsewhere concerning noise levels when up to 30 riders are competing in a Motocross race. (My understanding is that the newer four-stroke bikes tend to be louder and create a type of noise that carries farther than the older two-stroke models.)

Finally, what the Bennetts have, both existing and proposed, is a commercial enterprise, and not a "Social Institution".

Thank you.

Sincerely yours,



John D. Phinney
16 Overlook Drive
Gorham, ME 04038

Donatelli Comments received during meeting:

Printed by: David Galbraith

Tuesday, May 14, 2013 9:15:43 AM

Title:

Page 1 of 1



Message

Mon, May 13, 2013 7:20 PM

From: Marc <marks@maine.rr.com>

To: David Galbraith

Subject: Exception for Bennett property

Attachments: Attach0.html / Uploaded File

3K

Mr Galbraith

My name is Mark Donatelli of 61 Mighty St Gorham. Please allow me to express my deepest concern regarding the special exception for the Bennett property (item #5 planning board agenda May 13 2013). As a resident in very close proximity to the property in question, I would like you to recognize the hardship that the usage proposal would inflict on my family and I. To allow such a flagrant disregard of the zoning ordinance causes me great concern. The noise that the current usage produces is more than what should be expected. Their so called school has resulted in a hardship already, due to the loud motorcycles and music associated with the party's at night. I believe by calling it a school they tricked the town into allowing it. Please understand that we rely on the oversight by you and the other members of the town's various boards to protect us from this exact type of misuse, and I trust that you will make the proper judgment to protect the residents who's homes, lives and property values would be jeopardized but allowing this misuse to occur.

Thank You
Mark Donatelli

Mr. Hughes mentioned that abutters will be notified of the site walk once it is scheduled. Mr. Zelmanow also said that any individuals tonight who wish to be on the notification list of any further meetings, etc. should see Carol to get placed on the list. We will be setting the site walk up soon. Ms. Shain wanted to see the proposed motocross track, parking and drag race areas, assuming the after-the-fact areas will be obvious at the very least, and if the boundaries aren't really obvious then perhaps they should be marked as well since this is a large piece of property and it might not be easy to tell where the boundaries are. Mr. Hickey mentioned that staking out one of the tracks would be a huge project and could they possibly program a hand held GPS so that they could walk around and see it that way, however, staking the property boundary would be essential. Ms. St. Clair said they could do that and add some grade stakes along the access area to help them get a feel for what they are talking about. As far as the drag strips and parking area is concerned, they could just mark the outer extents so they could get a feel for what area they are talking about. Ms. St. Clair wanted to clarify questions about vehicle traffic on Mighty Street. There is no proposed access on Mighty Street whatsoever or on either end of Mighty Street. The primary/sole access is only off Fort Hill Road.

Ms. Shain mentioned that the agendas for the Planning Board are all posted publicly. Mr. Hickey suggested that for the next meeting we could have a mini-agenda for this particular item so we have a plan about what we are going to discuss and do it in a more organized fashion.

Ms. St. Clair also said that they intended to have a sit-down meeting with staff to review the comments we have heard tonight and received from the public. They would like to work with the staff to focus in on those issues and perhaps that would be a good tool to use for the next agenda.

Mr. Zelmanow felt that was a good idea and it would help to make sure we touched on every issue and not keep going around in circles. Tom will be in touch about a site walk date.


OTHER BUSINESS **None**

ANNOUNCEMENTS **None**

ADJOURNMENT

Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [10:17 p.m.]

Respectfully submitted,



Carol A. White, Acting Clerk of the Board
May 13, 2013

ITEM 1 - CONSENT AGENDA - SUBDIVISION AMENDMENT: LISA WATERS, Map 58 Lot 30, 39 Daniel Street, Timothy Acres Subdivision, Suburban Residential (SR) 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, Subdivision, Section III – C. Preliminary Plan Review, and Section IV – D. Final Plan Review.

Because no physical changes are proposed with this amendment, most of the Standards are not applicable, as indicated below.

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 identification of the clustered residential setbacks as identified on the Amended Subdivision Plan, Section #3 of Timothy Acres, conforms to the Clustered Residential Development Standards under Gorham’s Land Use and Development Code, Chapter II – General Standards of Performance, Section IV – Residential.

Finding: The amendment to Timothy Acres 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.

No changes to the subdivision are proposed that would impact the conditions of public roads on or off the site.

Finding: Not applicable.

- 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.

No changes are proposed to the subdivision lots’ utilities, waste removal, or fire protection requirements.

Finding: Not applicable.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.
No changes to the approved subdivision's water supply are proposed.

Finding: *Not applicable.*

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

No changes to the approved subdivision's sewage waste disposal are proposed.

Finding: *Not applicable.*

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

No changes are proposed to the approved subdivision regarding the impact on surficial or ground waters are proposed.

Finding: *Not applicable.*

- 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.

No changes are proposed to the approved subdivision that will impact the capacity of the land to hold water.

Finding: *Not applicable.*

- 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.

Finding: *Not applicable.*

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

Finding: *Not applicable.*

- 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: *Not applicable.*

- 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: *Not applicable.*

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;
3. That all relevant conditions of approval from the original subdivision approval 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.

ITEM 2 – SITE PLAN AMENDMENT, GOODWILL INDUSTRIES OF NORTHERN NEW ENGLAND, 34 Hutcherson Drive, Map 12 Lot 17.005, Industrial (I) zoning district.

FINDINGS OF FACT

CHAPTER IV, SITE PLAN REVIEW, SECTION IX – Approval Criteria and Standards

The Planning Board, following review of the Site Plan Application Amendment, makes these findings based on the Site Plan Review criteria found in Chapter IV, Section IX – Approval Criteria and Standards of the Town of Gorham Land Use and Development Code.

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

The applicant is proposing to construct additional parking space off an existing internal access road. The applicant has provided the Planning Board with a site plan sheet set, site plan application, and accessory information showing that the lot can support the proposed lot improvements for additional parking space.

Finding: The plan for the development reflects the natural capabilities of the site to support the development and the natural features and drainage ways are preserved to the greatest extent practical.

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.

Vehicular access to the site is through Sanford Drive and Hutcherson Drive. No increase in traffic volume is anticipated with the construction of the new parking area.

Finding: Sanford Drive and Hutcherson Drive have adequate capacity to accommodate the traffic generated by the development.

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

Currently all vehicles enter and exit the site from multiple access points. Two driveways are located on Sanford Drive and one driveway is located on Hutcherson Drive. The driveways vary in width from 24' to 30' wide, are constructed of bituminous concrete, and are all interconnected to allow access throughout the site.

Finding: The plans provide for safe and convenient vehicular access into 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 driveway between the existing parking area and the proposed parking area will be 26'. The width of the driveway is adequate to allow for two-way traffic and emergency vehicle access.

Finding: *The layout of the site provides for the safe movement of passenger, service, and emergency vehicles through the site.*

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

Three painted crosswalks will be installed across the access driveway to let patrons parking in the proposed parking area know where they can safely cross the access driveway. Two pedestrian crossing signs will also be placed along the access road both to the north and the south of the parking area to alert drivers that pedestrians may be crossing the driveway.

Finding: *The plans provide a system of pedestrian circulation within the development.*

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.

The site is located within the Gorham Industrial Park which was approved with a comprehensive stormwater plan. The storm water from the additional 4,836 sq.ft. of impervious area for the parking area, will continue to drain as approved under the comprehensive storm water plan, which is to the wet pond located south of Sanford Drive. The pond has adequate capacity to handle the additional storm water run-off.

Finding: *The stormwater run-off will not have adverse impacts on abutting or downstream properties and the biological and chemical properties of the receiving waters downstream will not be degraded.*

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 Site Plan Amendment: Sheet 1 shows the location and installation details for erosion control best management practices to be installed on site, and Erosion Control Notes and Details; Sheet 2 identifies parameters for erosion control and winter erosion control measures to be utilized on site. The applicant will also comply with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Maine Department of Environmental Practices.

Finding: *The plan utilizes existing topography and desirable 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 site is served by public water from Sanford Drive and no increase in the amount of public water used on the site is anticipated. No changes to the water supply are proposed.

Finding: *The development provides a system of water supply that provides for an adequate supply of water meeting the standards of the State of Maine for drinking water.*

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 site is served by public sewer from Sanford Drive and no increase in the amount of sewage used on the site is anticipated. No changes to the sewage disposal are proposed.

Finding: *The development provides for sewage disposal for the anticipated use of the site.*

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

The lot is served by natural gas and overhead power, cable and phone from Sanford Drive. No changes to the existing utilities are proposed on the site.

Finding: *The development will provide for adequate electrical and phone service to meet the anticipated use of the project.*

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.

The proposed construction will only disturb lawn area that was previously disturbed by past construction activity. No new natural features will be disturbed by the construction activity.

Finding: *The development of the site will preserve the existing vegetation to the greatest extent practical during construction.*

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 building and driveway expansion will not impact the groundwater table on the site. The applicant is proposing to allow stormwater to continue to flow and recharge the groundwater as was approved in the Gorham Industrial Park approvals.

Finding: *The proposed development 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.

Three existing pole mounted full-cut off lights are located within the outside of the existing parking area. Existing Lighting Plan: Sheet L1 details that the existing lighting will provide adequate lighting to the new parking area.

Finding: *The proposed development provides for adequate exterior lighting to provide for the safe use of the development during nighttime hours.*

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

The site is served by a concrete dumpster pad located in the northwestern corner of the lot. The pad is screened by a fence. No increase in the amount of waste material is anticipated and no changes to the site's waste disposal infrastructure are proposed.

Finding: The proposed development provides for adequate disposal of solid wastes and hazardous wastes.

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 existing landscaping will be disturbed by construction of the proposed parking area and no new landscaping is proposed as part of the amendment.

Finding: The proposed plan will provide landscaping to soften the appearance 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 lot is not located in the Shoreland Overlay District.

Finding: The development will not adversely affect the water quality or shoreline of any adjacent body of water.

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.

In the applicant's submission letter dated March 6, 2013, the applicant has identified that the project has been designed by State of Maine licensed engineers. The March 6, 2013 submission letter also identifies that the money for the proposed improvements shall come from Goodwill of Northern New England's capital improvements budget.

Finding: The applicant has the financial and technical capacity to complete the project in accordance with Gorham's Land Use and Development 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 abutting properties are developed by existing commercial uses, and the applicant is not proposing any buffering for the new proposed parking area.

Finding: The development provides buffering to screen service and storage areas.

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 uses at the site are required to meet the A-weighted hourly equivalent sound level limits of 70 dBA daytime (7am-7pm) and 60 dBA nighttime (7pm- 7am).

Finding: *The development will comply with the A-weighted hourly equivalent sound level limits of 70 dBA daytime (7am-7pm) and 60 dBA nighttime (7pm- 7am).*

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 all relevant conditions of approval from past Site Plan approvals shall remain in effect;
5. That any proposed use on the site shall meet the sound level requirements outlined under Chapter IV, Section IX, T. Noise;
6. 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;
7. 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;
8. 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;
9. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and

10. 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 3: PRELIMINARY AND FINAL SUBDIVISION APPROVAL, Samuel Strumph, Sr., 393 Mosher Road, Map 31 Lot 6, Suburban Residential zone and Stream Protection subdistrict.

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, Subdivision, Section III – C. Preliminary Plan Review, and Section IV – D. Final 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 subdivision lots are proposed for single-family houses. The lots have road frontage on Mosher Road, State Route 237, and meet the minimum lot standards in the Suburban Residential zoning district. The lots will be served by public water, individual private septic systems, natural gas, and underground utilities. The applicant has provided a letter dated April 24, 2013, stating that he is financially stable and has the funds to complete the subdivision as approved.

Finding: The proposed Mosher Road subdivision conforms to 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 locations will have adequate site distance on Mosher Road, State Route 237. For each lot, the applicant is required to receive driveway permits from the Maine Department of Transportation as part of the building permit process.

Finding: The Mosher Road subdivision 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 lots will be served by natural gas and underground power, phone, and cable from Mosher Road. Household waste and recyclables will be handled through the Town's contracted waste hauler.

Finding: The Mosher Road Subdivision will not place an unreasonable burden by either direct cause or subsequent effect on 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.

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

The lots will be served by individual water services from the 12" watermain shown on Mosher Road, State Route 237. The applicant has provided a Portland Water District Ability to Serve letter from Glissen Havu, E.I., dated April 5, 2013 identifying that the lots can be served by the watermain located on Mosher Road.

Finding: The Mosher Road subdivision has sufficient water supply available for present and future needs as reasonably foreseeable.

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

The lots will be served by individual private septic systems. The applicant has identified possible locations for the septic systems along with providing test pit information for those locations.

Finding: The Mosher Road subdivision will provide for adequate solid and sewage disposal 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.

The subdivision will support single-family homes and associated amenities. The single-family homes will be supported by a septic system designed by a State of Maine licensed Site Evaluator, with stormwater from the site being allowed to sheet flow to the wetland and stream system located on the northern third of the site.

Finding: The Mosher Road subdivision 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 use of the proposed lots is to support single-family homes with associated amenities. The remainder of the lots will be vegetated with both lawn and wooded areas.

Finding: The Mosher Road 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.

The subdivision is located in the Town's Stream Protection Sub District as well as within the floodplain of Mosher's Brook. The applicant has identified Mosher's Brook base flood elevation at 112' and is proposing no disturbance within the base flood elevation or within the 75' Stream Protection Sub District.

Finding: The Mosher 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 applicant is proposing some clearing as part of the typical development of the lots for single-family lots. The area around the wetlands and streams will remain undisturbed.

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

Finding: The Mosher Road subdivision will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter VIII.

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: The Planning Board shall review the preliminary and final subdivision requirements at the May 13, 2013 Planning Board meeting and no changes to these plans are required to be reviewed.

- 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: The final plan and preliminary subdivision approvals will be granted at the same meeting.

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 no grading, filling, or earthmoving activities are allowed in the Base Flood Elevation without approvals from the Town Code Enforcement Officer and Town Planner;
4. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to issuance of building permits;
5. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
6. 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.

ITEM 4: PRIVATE WAY REVIEW, SARAH ANGELTUN, Map 79 Lot 12, Rural zone.

FINDINGS OF FACT

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.

The lot being served by the private way is proposed to have a single-family dwelling constructed on it.

Finding: The approved private way is designed to the one-lot private way standards so only a single-family dwelling is allowed to be located on the lot.

- 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.

Finding: The applicant has hired BH2M Engineers to prepare the private way plans which have been stamped by a registered land surveyor, Robert C. Libby, Jr. PLS #2190, and a professional engineer, Lester S. Berry, Jr. P.E. # 3341.

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.

Finding: A maintenance agreement is not required for the project because the private way will provide access to only one single-family dwelling/lot.

- 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.

Finding: *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.

Finding: *The 325' private way has been designed to the one-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.

Finding: *The proposed private way is being designed to the Town's one-lot private way standard, so only one lot or dwelling unit shall be allowed to be served by 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).

Finding: *The proposed lot is 8.1 acres in size with the land area of the private way being .43 acres in size. The remaining area of lot is more than enough to meet the lot sizes in the Rural District. The fee interest in the right-of-way will remain with the lot shown on the plan.*

Conditions of Approval

- 5. 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;
- 6. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;

7. 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;
8. That the underground electric lines shall be inspected by the Code Enforcement Office prior to burial;
9. 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;
10. 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,
11. That the applicant shall provide an escrow for field inspection based on costs for improvements shown on the plan;
12. 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;
13. That the private way shall be properly maintained for access of emergency vehicles year round;
14. That the houses shall be properly numbered with the numbers being visible from the private way year around;
15. 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;
16. 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;
17. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
18. 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.