



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

LOCATION: Municipal Center, Burleigh H. Loveitt Council Chambers  
75 South Street, Gorham, Maine 04038

**Members Present**

**EDWARD ZELMANOW, CHAIRMAN  
MELINDA SHAIN, VICE CHAIRMAN  
JAMES ANDERSON  
GEORGE FOX  
THOMAS HUGHES  
RACHEL SUNNELL  
COREY THERIAULT**

**Staff Present:**

**DAVID GALBRAITH, Zoning Administrator  
THOMAS POIRIER, Town Planner  
BARBARA SKINNER, 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.

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**APPROVAL OF THE SEPTEMBER 9, 2013 MINUTES**

Mr. Zelmanow noted that the minutes listed Mr. Anderson as present when he was in fact absent for the September 9, 2013 meeting.

**Melinda Shain MOVED and Thomas Hughes SECONDED a motion to approve the minutes of September 9, 2013 with the correction as noted. Motion CARRIED, 6 ayes (James Anderson abstaining as not having present at the meeting). [7:03]**

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**COMMITTEE REPORTS**

**A. Ordinance Review Committee** - Corey Theriault reported that the Committee met on September 23, 2013 and the results of that meeting on the motocross item will be shared this evening.

**B. Streets and Ways Subcommittee** - Ms. Shain reported that this subcommittee has not met since the Board's last meeting.

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**CHAIRMAN'S REPORT** – Mr. Zelmanow noted that in accordance with Planning Board rules, any agenda items not taken up by the Board prior to 10:00 p.m. will be rolled over to the next meeting of the Board, which is scheduled for October 21, 2013.

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**ADMINISTRATIVE REVIEW REPORT** – Mr. Poirier said that there were no new items to report.

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**ITEM 1 PUBLIC HEARING:** *(continued from September 9, 2013)* - **Land Use and Development Code Amendment** - Amendments to the Gorham Land Use & Development Code pertaining to Chapter I, Section V – Definitions to add definitions for ATVs, All-Terrain Vehicle and Motocross Track and Section VIII – Rural District, (B.) Permitted Uses, #12 to add the phrase “or commercial”.

Mr. Poirier said that at its September 9, 2013 meeting, the Board discussed a number of items as part of the zoning amendment, such as noise and number of bikes permitted to be used on site. The item was referred back to the Board’s Ordinance subcommittee for review, which met on September 23, 2013, and it was agreed that the language forwarded by the Town Council would only be changed by adding the word “primary” before the word “purpose,” so that the definition would read “An area of land for the *primary* purpose of racing or riding dirt bikes...”

“ATV: ATV means All-Terrain vehicles.

All-Terrain Vehicle: “All-Terrain Vehicle” means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel, or belt-driven vehicle; an amphibious machine or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this ordinance, “All-Terrain vehicle” does not include a snowmobile, a construction or logging vehicle used in the performance of its common function; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

Motocross Track: An area of land for the *primary* purpose of racing or riding dirt bikes, motorcycles, or ATVs over a natural or simulated rough terrain. A motocross track shall not be considered an activity or a facility of a social nature.

Amend Chapter I, Section VIII – Rural District, B. Permitted Uses

12) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential or commercial purposes, which has less than two thousand (2000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period. (B) Permitted Uses”

Mr. Poirier noted that any property that has not received approval for a motocross track prior to July 16, 2013 would not be allowed to do so under this proposed ordinance change if it is approved by the Town Council.

Mr. Zelmanow thanked the members of the public who attended the Ordinance Subcommittee meeting on September 23, 2013, saying that it is always helpful to have public input into these discussions.

Ms. Shain asked what the Town Attorney had recommended in her review of the motocross language. Mr. Zelmanow said that during the Ordinance Subcommittee meeting a discussion was held about numbers of vehicles, but it was decided that by putting numbers into the ordinance it was going outside of the scope of what the Town Council had sent to the Board to review, which were

definitions. Mr. Zelmanow said that if the Board decides to limit the number of vehicles, a letter can always be sent to the Council on that issue. Mr. Poirier quoted the two versions proposed by the Town Attorney as follows:

“Motocross Track: An area of land used for the purpose of riding dirt bikes or All- Terrain Vehicles by anyone other than a resident of the property.”

Or, in the alternative:

“Motocross Track: An area of land used for the purpose of riding more than a total of two (2) dirt bikes-or All-Terrain Vehicles at any time.”

Mr. Poirier confirmed that the ATV definition is based on state statute.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

**George Fox MOVED and James Anderson SECONDED a motion to recommend adoption by the Town Council of the proposed Land Use and Development Code amendments to Chapter I, Section V, by adding definitions of ATV, All-Terrain Vehicle, and Motocross Track, and to Chapter I, Section VIII, B. Permitted Uses 12) by adding “or commercial” as amended by the Planning Board. Motion CARRIED, 6 ayes, 1 nay (Melinda Shain). [7:15 p.m.]**

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**ITEM 2 PUBLIC HEARING** *(continued from September 9, 2013)* – **Site Plan Amendment** – East Coast Communications, LLC request for approval of a 3,200 square foot building expansion and revision to the existing Site Location of Development Permit to create an additional 10,890 square feet of impervious surface, located at 29 Cyr Drive, Map 29 Lot 2.008, Industrial zoning district.

Mr. Poirier said the Board held a public hearing on this item on September 9, 2013, and also held a site walk on September 23, 2013. The applicant has made some changes to the plans from the site walk. In response to Mr. Zelmanow, Mr. Poirier said that staff has not yet seen a copy of the permit but that is a question for the applicant to address this evening.

Rob McSorley, Sebago Technics, came to the podium and said that DEP has considered the submittal complete, and according to an email last week from Bill Bullard, the project manager, they are in the process of writing up the permit, which said that the permit was expected to be issued in the next several weeks.

Mr. Zelmanow commented that in the past the Board has not given final approval to an application without the DEP permit in hand. The Board has reviewed an application to make sure everything is in order and then placed the item on a Consent Agenda when the permit is in hand.

Ms. Shain asked if any changes are being proposed to the landscaping based on discussions at the site walk. Mr. McSorley spoke about their concern that staff’s comment asking for more landscaping on the northern property line would require removal of vegetation in order to put

vegetation in, and said that instead they have put a condition on the plan that if there is a loss of vegetation on that property line, at the discretion of the Code Enforcement Officer and Town Planner more landscaping will be installed. He said that more landscaping is proposed in addition on Cyr Drive on the front of the property to screen the parking in the form of additional junipers and bittersweet bushes to augment the large species trees. Ms. Shain said she did not believe the existing trees look very large or healthy. Ms. Sunnell said she appreciates that plants have been added for the front of the building, but said she has scale issues with the landscaping and suggested a re-evaluation of the landscaping with plantings that are more vigorous. She commented that larger plantings can mean fewer plantings. Mr. McSorley said he would discuss the issue with Steve Doe, who prepared the landscaping. Mr. Hughes commented that he is not comfortable with asking the applicant to put in more landscaping in an industrial zone, and said that he is not concerned with the size of plantings so long as it doesn't look bad.

Mr. McSorley told Ms. Sunnell that the wall pack fixtures have been chosen to match those on the building now. Mr. Poirier said that the conditions of approval have been shared with the applicant.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

**Thomas Hughes MOVED and Corey Theriault SECONDED a motion to put this item on the Consent Agenda for the October 21, 2013 Planning Board meeting.**

Discussion: Ms. Shain said that if the plans show that the landscaping needs further attention she will vote to take the item off the Consent Agenda.

**Motion CARRIED, 7 ayes.** [7:30 p.m.]

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**Edward Zelmanow MOVED and Corey Theriault SECONDED a motion to take Item 7 out of order. Motion CARRIED, 7 ayes.** [7:31 p.m.]

**ITEM 7 SUBDIVISION AMENDMENT** - East Coast Communications, LLC and Shaw Earthworks request for approval of a Subdivision Amendment to the New Portland Parkway Subdivision located off New Portland Road and Libby Avenue in the Industrial zoning district and the Black Brook and Brackett Road Special Protection District on Map 29 Lot 2.

Mr. Poirier explained that this is an amendment to the New Portland Parkway Subdivision for two lots, that of Shaw Earthworks, Lot 6, and East Coast Communications, which is lot 8 in the subdivision. As part of the original subdivision approval, there were limitations placed on impervious area for each of the lots, as well as wetland impacts. This amendment will amend those impervious area numbers to what their new permits will represent for each one of the lots. Shaw Earthworks has already gone through the DEP amendment process and has received their amendment. East Coast Communications is still going through the process. Only the subdivision plan will need to be revised as part of the subdivision amendment.

Mr. Poirier said that in addition, there were some wetlands delineated on Shaw Earthworks' plans which are now no longer considered wetlands, so these areas have been removed from the subdivision plan and are now shown as upland areas. Staff is now awaiting East Coast Communications' final DEP permit.

Mr. Zelmanow said that if after review the Board feels this application warrants approval, all that is missing is the DEP permit, so this item could as well be placed on the Consent Agenda for the October 21, 2013 meeting.

Mr. McSorley said that the Shaw Brothers permitting number and date information is on the draft plan submitted to the Planning Board, and East Coast Communications' modification number is on the plan but the date is not.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Mr. McSorley advised that there are no problems with the conditions of approval.

**Melinda Shain MOVED and Thomas Hughes SECONDED a motion to put this item on the Consent Agenda for the October 21, 2013 Planning Board meeting. Motion CARRIED, 7 ayes. [7:40 p.m.]**

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**ITEM 3 PUBLIC HEARING - Contract Zone -** Anthony Kourinos request for a Contract Zone in order to allow specific commercial uses on Map 6, Lot 43.2 in the Suburban Residential (SR) and Stream Protection Subdistrict zoning district.

Mr. Poirier said that this item is a South Gorham contract zone somewhat similar to other contract zones in the past, except that the Town Council has stricken the language that allows the sale of gasoline under 2. Permitted Uses. Staff has removed that language as well as any reference to gas stations, whether in the buffer or setbacks, in the proposed contract zone before the Board this evening. This parcel is in close proximity to the contract zones of Wood and Bearce. The front of the lot is fairly flat, with a substantial ravine going to the river in the wooded back of the parcel.

Ms. Shain asked for confirmation that all the contract zones in this area allow for the sale of gasoline except this one. Mr. Poirier said that the Council also struck out the sale of gasoline as part of the last contract zone, for Richards and Winslow, which had a house on site and was not vacant land. Ms. Shain confirmed with Mr. Poirier that it would be correct to say that all other lots that are currently undeveloped are permitted to sell gasoline as a permitted use. Ms. Sunnell said she finds it odd that the Board is discussing a contract zone without a project. Mr. Theriault asked if a gas station would be acceptable if the parcel were zoned commercial. Mr. Poirier replied that it could be zoned as permitting gas stations and would be allowed in the Roadside Commercial zone. In reply to Mr. Zelmanow, Mr. Poirier said that the Stream Protection Subdistrict requires a 75 foot setback from the edge of the river and there would be some limitations on clearing. Mr. Poirier told Mr. Theriault that he would have to seek clarification from the Town Attorney as to whether the Stream Protection Subdistrict would override the contract zone.

Mr. Fox asked if there was any discussion at the Council level about rezoning this area, or would rezoning continue to occur piecemeal. Mr. Galbraith said that the rezoning question was sent to the Council's Ordinance committee, he and Mr. Poirier worked on a two-layered complete rezoning plan with design standards as well, more in keeping with design standards for the downtown, but it is his understanding that the Ordinance committee recommended that the entire area not be rezoned at this time. Mr. Galbraith said that the rezoning is still on the Ordinance committee's agenda.

Ms. Shain that even if the Council does rezone the area, the contract zones will trump the zoning, which she believes stresses the importance of consistency from a planning perspective and that similar parcels should be treated similarly.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

**Thomas Hughes MOVED and Edward Zelmanow SECONDED a motion to recommend adoption to the Town Council of the proposed Contract Zoning Agreement between Anthony K. Kourino, Map 6, Lot 43.2, in the Suburban Residential zoning district and Stream Protection Subdistrict and the Town of Gorham.**

Discussion: Mr. Poirier replied to a question from Mr. Zelmanow that should the Planning Board not recommend adoption to the Council, the Council will hear the contract zone as the Board is reviewing it tonight. Ms. Shain said she would be willing to vote for a proposal substantially the same as others that did not strike the sale of gasoline so that similar parcels are treated the same; however, she cannot be in favor of this as language revised by the Council striking the gas station language. Mr. Theriault said he will vote against this on the principle of the contract zone idea; however, he can accept Ms. Shain's point that this goes down the wrong path even further by changing the language again. Mr. Zelmanow said he agrees with the Council striking gas sales, and hopes that the Council looks at each lot on a case by case basis. Mr. Hughes said he assumes that this amendment made to the contract zone had to have been discussed with the applicant and that this was not an arbitrary decision on the part of the Council. Mr. Fox said that it really doesn't matter what the Board votes here in this particular case because the Council will do whatever it wants with this, and clearly the Council prefers to use contract zones instead of rezoning.

**Motion to recommend adoption of the contract zone FAILED, 4 nays (George Fox, Melinda Shain, Rachel Sunnell, Corey Theriault). [7:48]**

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**ITEM 4 PUBLIC HEARING - Site Plan Review-** Martin's Point Health Care request for approval of a 12,600 square foot medical office building with associated parking and site improvements, located at the intersection of Routes 25 and 237, Map 32 Lot 18, Roadside Commercial (RC) zoning district.

Mr. Poirier gave an overview of the project, saying that there was a pre-application on July 16, 2013, the Board did a review on August 5, a site walk was held on August 12 and a public hearing is taking place this evening. Staff has completed its review of the proposal and has prepared draft findings of fact for the Board's review.

Kylie Mason, Sebago Technics, came to the podium and introduced Dick Daigle for Martin's Point. Mr. Daigle introduced Derek Veilleux of SMRT to give an overview of the building itself, and Joe Pickerell from PC Construction.

In response to Mr. Zelmanow, Ms. Mason said that they have a letter saying that their DEP application is complete and the permit is awaiting signature. She asked the Board to consider a condition of approval for the outstanding DEP permit, their concern being that they would like to start construction before the snow flies and do not want to wait until the Board's November meeting should the permit not be in hand for the second meeting in October.

Ms. Mason said that a sidewalk from the parking lot to Beal's has been added. They have met with Beal's, Planning staff and Tom Errico, the Town's traffic engineering reviewer, and an agreement has been reached with Beal's which requires them to go before the Zoning Board of Appeals next week for the relocation of one of Beal's freezers. This relocation would turn the freezer more in line with the building, would allow access behind the building, and would permit Martin's Point to close Beal's western-most access. A revised traffic plan has been submitted and reviewed by Tom Errico and has addressed all of his concerns. The sign on the building is not illuminated but the sign at the driveway entrance is illuminated. The dumpster pad will be moved 8 to 12 inches out of the setback. Striping has been added within the parking lot for pedestrian circulation, stop signs and directional arrows denoting one-way traffic, drop off areas, and ADA accessible areas have been added. Extensive landscaping has been added, both in buffering and site amenity. All of the Fire Chief's concerns have been addressed and a fire hydrant has been added to the access drive. Public utilities will be used on site.

Mr. Zelmanow confirmed with Ms. Sunnell that she has reviewed the relevant material, but not the past minutes, but does feel she is able to proceed in a fair and impartial manner reviewing the application.

**Edward Zelmanow MOVED and James Anderson SECONDED a motion to permit Ms. Sunnell to remain on the dais and participate in the review of the application. Motion CARRIED, 6 ayes (Rachel Sunnell abstaining). [7;59]**

Ms. Mason gave an overview of the overall plan, pointing out site access and the wide drop off area in front of the building, circulation in front of the building limited to one-way, a stop bar to prevent vehicular conflicts, crosswalks from both the main and the secondary parking lots, parking exceeds Town standards, and there is a large concrete pad parking to support any future imaging needs.

There will be a signalized entrance at Routes 25 and 237. There will be a dedicated left turn into the site and there is no turn on red. Mr. Zelmanow and Ms. Mason discussed the stop bar, designed to stop vehicles just short of the mountable island as opposed to projecting them out into the right-of-way. Ms. Mason indicated that their traffic engineer feels that there will be no vehicle encroachment at the intersection. Ms. Mason confirmed to Mr. Anderson that the back-up generator pad will have a substantial buffer. Mr. Zelmanow asked about a lighting plan, Ms. Mason said that all the parking islands will have lighting. Mr. Anderson said he would like to see a lighting plan that actually shows the lighting. Ms. Mason said that all the fixtures will be full cutoff, except for the pole, which will be horizontally shielded. Mr. Theriault and Ms. Mason discussed extending the sidewalk past the crosswalk. Ms. Shain asked if there have been any communications regarding trails or easement at the rear of the parcel. Ms. Mason replied that there have been some high-level early conversations, but there hasn't been enough interaction to do anything formalized. Ms. Shain expressed her appreciation of the efforts made between Martin's Point and Beal's.

Mr. Hughes asked what could be in the DEP permit that would encumber the Town. Mr. Poirier said he did not believe there would be any kind of encumbrance, and that if there were any changes they would have to do with stormwater. Mr. Galbraith asked the Board to make this a change from the normal and make a condition that the DEP permit has to be in hand before any permits are granted, and that if there were a change in the DEP permit the applicant would need to return before

the Board. Ms. Shain said that since it is possible that the DEP permit might come before the Board's October 21 meeting, she would like to see the Board wait at least until that meeting.

**PUBLIC COMMENT PERIOD OPENED:** Dan Shaw, Shaw Brothers Construction, spoke in favor of the application, saying they have worked with the architect, the engineer, the builder and the owner for many years, and there couldn't be a better team in a better place for this medical center. He urged the Board to accommodate the applicant's request concerning the DEP permit.

**PUBLIC COMMENT PERIOD ENDED.**

Mr. Zelmanow said that seeing there is a letter from DEP and this is a major site plan, he would not be opposed to granting conditional approval. Mr. Theriault said that if the Board had not told another applicant earlier in the evening that a conditional approval could not be granted, he would be all for it. Mr. Poirier asked how the Board wants a condition of approval written: to see the permit before signing off on a final plan, a condition which says prior to the preconstruction meeting the applicant will have received the DEP and staff will have reviewed it. Ms. Mason suggested before getting a building permit; Mr. Poirier said he would prefer start of construction, earthwork moving. Ms. Shain said she would feel comfortable with putting this on the Consent Agenda for the October 21 meeting, and if the DEP permit hasn't come in by then, she would consider at that time an exception. Mr. Daigle asked what further delay could be anticipated if they do not have their DEP permit for the October 21 meeting. Mr. Poirier said if they do not have the DEP permit by the meeting on October 21, staff will work with the applicant to add a condition of approval stating that prior to the pre-construction meeting the applicant will have the DEP permit. The plans will be available for signature at the October 21 meeting.

**George Fox MOVED and James Anderson SECONDED a motion to put this item on the Consent Agenda for the October 21, 2013 Planning Board meeting. Motion CARRIED, 7 ayes. [8:29 p.m.]**

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*10 Minute Stretch Break*

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**ITEM 5 PUBLIC HEARING – Site Plan Amendment** - Shaw Brothers request for approval of a major site plan amendment to modify Conditions of Approval #33 (signage) and #36 (buffer) of the 2008 asphalt plant approval, located at 341 Mosher Road, Map 34 Lot 9, Industrial zoning district.

David Galbraith, Zoning Administrator, gave an overview of the history of the approvals for the applicants' site of approximately 126 acres, which were for the quarry and asphalt plant, followed by the corporate office building, storage building and scale house. The current application seeks to match previous approvals by the Board and to modify two conditions of approval from the original approval, namely, Condition of Approval #33 relating to signage, and Condition of Approval #36 relating to buffering.

Mr. Galbraith explained that Condition #33 states "That any permanent structure on the site visible from the public way and/or nearby residences shall be constructed of materials conducive to blending with the environment and shall be of a neutral palette so as to blend as far as possible with the natural surroundings. The Condition applies to the permanent asphalt plant. There shall be no signage on the



silos”. Currently the applicant is proposing 4 signs, one on each silo, which will be located 500 feet off Route 237 and behind the fuel canopy. Staff believes that Shaw Brothers’ request to eliminate this Condition is reasonable as the proposed signage meets the Town’s current Sign Ordinance.

Condition #36 states that “The applicant shall maintain a continuous vegetated buffer between the public right-of-way and the asphalt plant operations throughout the life of the plant; provided, however, to the extent buffering is currently provided by existing buildings, if and when some or all of those buildings are torn down, their buffering shall be replaced, on the same linear foot basis, by a continuous vegetative buffer.” Mr. Galbraith explained that when the quarry and asphalt plant were approved, the existing buildings formerly belonging to Morin Brick were part of the screening for the applicants’ operation. Since the initial approval of the quarry and asphalt plant, the “existing buildings” (Morin Brick buildings) have been torn down and Shaw Brothers has constructed their two-story 34,595 square foot corporate office building as well as an 80 x 300 foot storage building which have almost the exact same lineal feet of buffering that existed previously. In addition, when those buildings were built, buffering in the form of ten maple trees was added in front of the corporate office building. Therefore staff believes that the proposed plans meet the screening requirements and intent of the original Planning Board approvals and therefore recommends removing this Condition of Approval.

Ms. Sunnell disclosed that the company she works for worked on the architecture of this building, but she believes that it is not a conflict and that she can participate fairly and impartially in the review of the item.

**James Anderson MOVED and Corey Theriault SECONDED a motion to permit Ms. Sunnell to participate in the discussion of this item. Motion CARRIED, 6 ayes (Rachel Sunnell abstaining).**

Ms. Shain disclosed that she lives in Gateway Commons subdivision, part of which is adjacent to the applicants’ project, and that she was involved as a member of the public when the original project came before the Planning Board. She believes that she can be impartial and fair in the discussion of this item.

**Thomas Hughes MOVED and Rachel Sunnell SECONDED a motion to permit Ms. Shain to participate in the discussion of this item. Motion CARRIED, 6 ayes (Melinda Shain abstaining).**

Dan Shaw, Shaw Brothers, came to the podium and introduced Craig Lucas who prepared the Board’s plan information. Mr. Zelmanow complimented Mr. Shaw on the attractive building that has been constructed on the site. Mr. Shaw said that when the new corporate building was built to replace the LeChance buildings, 11 feet of fill was added on the south side so the new building is higher in elevation and the buffer is substantially higher than the old buildings were. He commented that the speed limit on Route 237 is 50 miles an hour and the silos are almost 600 feet from the road.

Mr. Theriault said that the tanks appear to be of good construction, look good and he believes there is no need to screen them. In reply to Mr. Zelmanow, Mr. Shaw said that the plant will be lit because there will be some night work but there is nothing planned to specifically light up the logos on the tanks. Ms. Shain said that she liked the original buffering on the plans and asked what

is proposed for screening now. Mr. Zelmanow said that the issue was that if the corporate headquarters did not get built and the Morin buildings were torn down, what would be there instead to serve as a buffer. He said that the corporate headquarters building has now taken the place of those Morin Brick buildings, and therefore that building will serve as screening for the asphalt plant. Mr. Anderson said that it seems like a fair trade for what was up there before. Mr. Shaw confirmed that nothing else is planned for screening and that the trees which have been planted will block a lot of the view. Mr. Shaw confirmed with Ms. Shain that the landscaping in front of the asphalt plant is already in.

Mr. Zelmanow recommended that Condition #33 be left in because in the event there is no building there, some type of buffering needs to be installed. Mr. Shaw said that he believes Planning staff wanted to be sure that the Board agrees that the applicants have met the intent of Condition #33. Mr. Galbraith said that the Condition speaks to a "... continuous vegetated buffer" and staff wants to make sure that the current buffering by the building meets that requirement. Mr. Zelmanow said that the intent of the Condition has been met because there is an "existing" building that serves as a buffer.

Mr. Zelmanow and Mr. Shaw discussed the two-way internal traffic pattern to the asphalt plant.

The Board then discussed Condition #36 regarding signage. Mr. Hughes said that the tanks are good looking and that the logos on them meet the requirements of the current Sign Ordinance. Ms. Shain said that everyone knows whose property and whose silos these are, and she is not in favor of allowing signs on the silos because not allowing such signs was part of the give and take of the original process.

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

Mr. Zelmanow said that the motion on this application can state that Condition of Approval #33 can be retained. Mr. Hughes said he sees no reason why the signs should be taken off the silos, that the applicants should be able to advertise their business. Mr. Theriault agreed. Ms. Shain commented that the logos are already on the silos; Mr. Shaw replied that this is a function of how the paint and the logos are baked in during construction of the silos.

**Corey Theriault MOVED and Thomas Hughes SECONDED a motion to grant Shaw Brothers' request for approval of Site Plan Amendment for M34 L9 in the Industrial zoning district, by Sebago Technics, Sheets 1 and 2, dated May 7, 2010, with an amendment date of August 30, 2013, and to modify Condition of Approval #33, Silo Signage, and as discussed this evening, to retain Condition of Approval #36, Landscaping and Screening, of the original Site Plan with Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 ayes, 1 nay (Melinda Shain). [9:10 p.m.]**

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**ITEM 6 PUBLIC HEARING – Site Plan Amendment - ODAT Realty Holdings, Inc.** request for approval of a 13,600 square foot building expansion, located at 20 Sanford Drive in the Gorham Industrial Park on Map 12 Lot 33.016 in the Industrial zoning district.

Mr. Poirier said that the original site plan for this site was approved in 2003 for a 21,270 square foot building with 45 parking spaces and an access road around the building. In 2007 the applicant returned for a 6,305 square foot warehouse addition and a 1,800 square foot storage building located on the southwestern corner of the lot, with no additional parking or impervious areas proposed.

Les Berry, BH2M Engineers, introduced Dick Pratt, Lee Pratt and Jim Biskup, two owners and one contractor. Mr. Berry explained that this is a 5.35 acre site in the Industrial Park approved in the late 1970s. Part of the original Site Law Permit for the Industrial Park is that this site can have 70% impervious area. As they are well within that parameter, a DEP permit is not an issue for this application. Proposed is a 13,600 square foot building and a net increase of 19,000 square feet of new pavement, part of which involves the removal of some pavement around the building. Mr. Berry said that the plan submitted shows 54 parking spaces; however, with over 50 spaces a traffic study would be required. With this 44,000 square foot plus building, parking is calculated at one space per 1,000 feet, 45 spaces are required so they can either ask for a waiver or go to 49 spaces. ODAT employs about 60 people; the first shift is 28 people, a second shift of 15 and a third shift of 15, with the shifts overlapping. Therefore the most cars on site would be 45 during a shift change. Mr. Berry pointed out the loading dock, which will not change. The new building has two garage doors which are not for loading and unloading manufactured products, they are to get machinery in and out of the building. Mr. Berry pointed out the 30 foot buffer zone along the property, and to avoid cutting into the buffer significantly, he said that they will remove the ditch and put in a curtain drain. Although they infringe somewhat in the buffer, for the first few feet there is nothing in the buffer and they will only impact a couple of trees. Mr. Berry acknowledges that they qualify for the Qualified Post Construction Stormwater monitoring. Lighting information has been provided. So far as stormwater is concerned, ODAT put in a new pipe down to the detention pond back in 2007.

Ms. Sunnell confirmed with Mr. Berry that this site is covered under an existing Site Law Permit from the 1970s and 70% of each lot is approved for impervious surfaces. Mr. Berry said they are well below that 70% and no DEP permit is required for this project. Ms. Shain asked whether 50 or 49 parking spaces are preferred. Mr. Berry said 49 spaces is fine with no traffic impact analysis. Mr. Berry confirmed with Mr. Zelmanow that no stormwater calculations are necessary. Mr. Berry said that they do not propose to take half of the existing 30 buffer, only a few feet will be impacted and could be replanted with slight regrading. Ms. Sunnell asked for confirmation about replacing the buffer if it is disturbed. Mr. Poirier replied that a condition of the Planning Board that if they disturbed that buffer, they would have to come back before the Board. Mr. Berry said that while the buffer will be disturbed, it will be replaced. Mr. Theriault said he would like to see the something similar replacing the trees that will come down.

The consensus of the Board is that there is no need for a sitewalk.

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

**PUBLIC COMMENT PERIOD ENDED.**

Mr. Zelmanow suggested that a new condition of approval #7 be added that the disturbed area of the buffer will be returned to the same if not better condition than prior to the disturbance. Mr. Poirier said that the plans will show that, so no new condition of approval is needed. Mr. Poirier noted that a letter of financial capacity has not been provided. Staff will have the applicant's engineer talk to the peer review engineer to make sure all comments are addressed. Ms. Shain said

that a change needs to be made to Finding of Fact S. Buffering as the applicant is not proposing to reduce the buffer by 15 feet. Staff will revise that Finding once the revised plans are submitted. The plans need to reflect any parking changes as well.

**Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to put this item on the Consent Agenda for the Planning Board October 21, 2013 meeting. Motion CARRIED, 7 ayes. [9:25 p.m.]**

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**Thomas Hughes MOVED and Melinda Shain SECONDED a motion to waive the 10:00 o'clock rule. Motion CARRIED, 7 ayes. [9:27 p.m.]**

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**ITEM 7      SUBDIVISION AMENDMENT** - East Coast Communications, LLC and Shaw Earthworks request for a Subdivision Amendment to the New Portland Parkway Subdivision located off New Portland Road and Libby Avenue, Industrial (I) zoning district and the Black Brook and Brackett Road Special Protection District, Map 29 Lot 2.

**PREVIOUSLY DISCUSSED AS ITEM 3.**

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**ITEM 8      PRIVATE WAY REVIEW** - Alyse and Jacob Wallace are requesting approval for a 150' private way (Allen Way) to serve one lot off Spiller Road on Map 82 Lot 1 in the Rural (R) zoning district. The applicant's agent is Andrew Morrell, PE of BH2M.

Thomas Poirier described this application as a one-lot private way and it is the first time the application has come before the Board. Staff has done some preliminary review on the item, and the only outstanding issue has to do with a ditch turnout for stormwater coming from the culvert and the driveway.

Andrew Morrell, BH2M, described the parcel as a family lot owned by the applicants' grandparents, who cut out a lot for the applicants' parents back in the 1980s and are now looking to cut out a lot for their granddaughter. The proposed private way is off Spiller Road, just off Buck Street, is 150 feet long, a 12-foot gravel road with 2-foot gravel shoulder on either side.

Ms. Shain and Mr. Morrell discussed the placement of the driveway, which the applicants have not as yet decided, but probably will be off the private way. Mr. Poirier said that the driveway has to come off the private way. Mr. Morrell said that should the private way ever be extended the hammerhead will be removed. He said that the ditch turn-out will be shown on the final plan.

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

**Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to grant Alyse and Jacob Wallace's request for approval of a 150' private way constructed to the Town's**

**one-lot private way standards on 20.48 acres off Spiller road, located on Map 82, Lot 1, situated in the Rural zoning district, based on the Findings of Fact and with the conditions of approval as written by the Town Planner. Motion CARRIED, 7 ayes. [9:45 p.m.]**

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**ITEM 9 PRIVATE WAY REVIEW** - Justin and Kelly Dearborn requesting for approval for a 561' private way (Cameron Way) off Davis Annex to serve two to six lots, located on Map 38 Lot 3, Suburban Residential zoning district.

Mr. Poirier said that the applicants received approval in June of 2013 to rescind a 14-lot subdivision served by public water and two roads built to the Town's rural access standards as the market did not support that size of development for the site and the number of lots would not support public water. The applicants are now proposing a 561 foot private way built to the Town's two to six lot standards and to split off lots in the future either for sale or for family members. Mr. Poirier said that comments have been received today from the Public Works Director regarding his recommendations for improvements to Davis Annex Road; these comments have been provided to the applicants' engineer.

Andrew Morrell, BH2M Engineers, appeared at the podium representing the applicants and gave a history of the site, noting that in 2006 a 14-lot single family subdivision was approved, with a one-lot outsale. He said that this was the first project the Town reviewed under its current water ordinance, and requirement to extend public water was put on the project. Because of the public water requirements, improvements were also required for Davis Annex. The project was never built because of those two conditions. Last year the applicants came back with a proposal to scale back from 14 lots to 4 lots, going from a public road to a private road, with a waiver from the Town for the extension of public water, which the Town agreed to do. However, there were still some requirements for improvements to Davis Annex, which with 4 lots still did not make the project economical for the developer. The applicants then chose to rescind the original 14-lot subdivision approval. At this point in time, the applicants have decided to move forward with a private way, similar to the original approval but built to the rural access standards but approved as a two to six lot private way.

Mr. Morrell said that his office intends to meet with the Public Works Director to discuss the item and would like as much feedback as possible from the Board this evening.

Mr. Poirier told Mr. Theriault that what makes this different from a subdivision is how the lots are split off that parcel, that in subdivision a developer can proceed with as many lots as can be supported with the zoning, but with a private way, one lot is allowed to be split off every five years, unless the lots are for immediate family members or land given to abutters. Any land given to an abutter also has to retain the five year requirement. Mr. Poirier said that the extension of public water is based on the maximum number of lots; the Board found that the 14 lots proposed in the subdivision did not support the extension of public water due to the amount of ledge in Davis Annex and the cost of blasting, and granted the applicants a waiver from the requirement to extend public water. Mr. Morrell said that another difference from this being a subdivision is that in the Suburban Residential zoning, 40,000 square foot lots are permitted; however, since it is no longer a subdivision the lots need to be 60,000 square foot lots.

Ms. Shain said it appears that the applicants still plan to develop the subdivision, only over a longer period of time, but doing the development piecemeal is a way to circumvent Planning Board approval and to avoid the off-site improvements to Davis Annex. Mr. Morrell said they would like to meet with the Public Works Director to see what Mr. Burns requires for this rural farm road and if there are other options. Mr. Fox said that unfortunately the rural nature of Davis Annex conflicts with wanting to develop the site for more house lots, and the infrastructure will need to support that development. The Board agreed that the Board defers to what the Public Works Director recommends.

The Board concurred that no site walk is necessary.

**Melinda Shain MOVED and Corey Theriault SECONDED a motion to table further review of Justin and Kelly Dearborn's request for private way approval pending responses to remaining issues. Motion CARRIED, 7 ayes. [10:05 p.m.]**

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**ITEM 10 PRIVATE WAY REVIEW** - Ken and Lisa Spiller are requesting approval of a 400' private way (Travis Way) to serve two to six lots off Buck Street. The property is located on Map 79 Lots 15 & 15.402 in the Suburban Residential (SR) zoning district. The applicant's agent is Thomas Greer, PE of Pinkham and Greer.

Mr. Poirier said that this item has been withdrawn at the applicants' request.

**Melinda Shain MOVED and Thomas Hughes SECONDED a motion to table to this item to the October 21, 2013 Planning Board meeting at the applicants' request. Motion CARRIED, 7 ayes. [10:07 p.m.]**

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**OTHER BUSINESS NONE**

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**ANNOUNCEMENTS NONE**

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**ADJOURNMENT**

**Thomas Hughes MOVED and James Anderson SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [10:11 p.m.]**

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Respectfully submitted,

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

**ITEM 5      SHAW BROTHERS SITE PLAN**

**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 all relevant conditions of approval not specifically modified herein are reaffirmed and shall remain in effect;
4. That the building will meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1;
5. That the gas meters shall be protected by bollards;
6. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
7. 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.

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**ITEM 8      JACOB AND ALYSE WALLACE PRIVATE WAY**

**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 be 60,612 sq.ft. The proposed lot is located in the Rural District which requires 60,000 sq.ft. per dwelling unit, so the existing zoning restricts the lot to have only a single-family dwelling unit.

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.

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, Andrew S. Morrell, P.E., #13285.

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"

Finding: *The Plan or Private Way for Allen Way has been prepared by a registered land surveyor and sealed by a registered professional engineer meeting the requirements for private ways.*

- 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 150' 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 20.48 acres in size with the land area of the private way being .43 acres in size. The remaining lot area 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**

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That any future extension of the private way shall be limited to less than 1,500' unless all the structures located on lots along the private way have sprinkler systems meeting the requirements of the Town's Sprinkler System Ordinance;
5. That the underground electric lines shall be inspected by the Code Enforcement Office prior to burial;
6. 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;

7. 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;
8. That the applicant shall provide an escrow for field inspection based on costs for improvements shown on the plan;
9. 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;
10. That the private way shall be properly maintained for access of emergency vehicles year round;
11. That the houses shall be properly numbered with the numbers being visible from the private way year around;
12. 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;
13. 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;
14. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
15. That these conditions of approval must be added to the 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.