



Town of Gorham
September 9, 2013
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, CHAIRMAN
GEORGE FOX
THOMAS HUGHES
MELINDA SHAIN
RACHEL SUNNELL
COREY THERIAULT

Staff Present:

THOMAS POIRIER, Town Planner
BARBARA SKINNER, Clerk of the Board

Members Absent:

JAMES ANDERSON

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

Mr. Zelmanow welcomed new Board member Rachel Sunnell. He noted that former Board member Christopher Hickey was present; he commended Mr. Hickey for his service on the Board. Mr. Hickey said it had been an honor and a tremendously satisfying experience to serve on the Planning Board. He said he appreciated the Board's pro-applicant attitude and its interest in applying the Town's ordinances to the applications.

APPROVAL OF THE AUGUST 5, 2013 MINUTES

Melinda Shain MOVED and Thomas Hughes SECONDED a motion to approve the minutes of August 5, 2013. Motion CARRIED, 5 ayes (James Anderson absent, Rachel Sunnell abstaining as not having present at the meeting). [7:03]

Mr. Zelmanow called for nominations for the position of vice chairman of the Planning Board, vacant as a result of Mr. Hickey's resignation.

Thomas Hughes MOVED and Corey Theriault SECONDED the nomination of Melinda Shain for the position of vice chairman. There being no other nominations, the motion was voted and CARRIED, 6 ayes (James Anderson absent). [7:05]

COMMITTEE REPORTS

A. Ordinance Review Committee - Corey Theriault reported that the Committee met on August 15, 2013 and discussed Items 1 and 2 on this evening's agenda dealing with definitions for airstrip, runways and landing strips, and ATVs and motocross tracks.

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

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

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier reported that while there are no new administrative review submissions, a number of applications have been submitted for the Board’s review, which include SB Enterprises’ brickyard amendment, ODAT Realty Holdings’ building expansion at 20 Sanford Drive, and two private ways.

Ms. Shain said that although she is aware that the Allen Acres is still pending, she would like clarification on the development occurring at the former Barrows Greenhouse site. Mr. Poirier explained that there are three lots and an existing house which were considered to be outside the Allen Acres subdivision, which are allowed to be developed without going forward with the rest of the subdivision. In response to Mr. Hughes, Mr. Poirier said that the PineCrest parking expansion was before the Board when a restaurant was being proposed. When that was withdrawn, the parking lot revision did not trip the threshold for impervious surface, requiring Board review, so that revision is an administrative review project.

ITEM 1 PUBLIC HEARING CONTINUED – 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 Airstrip, Runways and Landing Strips.

Mr. Poirier explained that there are three versions of the language in the Board’s packet: the original from the Town Council, the second a result of the Board’s August 15 workshop meeting, and the third version that of the Town Attorney. The Town Attorney felt that a definition for “aircraft” is not required, the term is not defined in the ordinance and the commonly accepted definition is used. The other revision recommended by the Town Attorney is clarifying that airstrips would only be allowed in zoning districts where they are listed as a permitted use or special exception use.

The Board agreed that a definition for aircraft is not necessary. The Planning Board’s recommended changes are shown **bolded and underlined** or **struck through**.

“Chapter I: Zoning Regulations, Section V – Definitions:

Airstrip (includes Runways and Landing Strips): An area of land **prepared or used that is used or intended to be used** for **the** landing and takeoff of aircraft. Airstrips, **Runways, and Landing Strips** shall not be allowed or considered an accessory use to **any** permitted **or special exception** use **and shall only be allowed in those zoning districts where they are listed as a permitted or special exception use.**

Runways: See Airstrips.”

PUBLIC COMMENT PERIOD OPENED: Hans Hansen, County Road, spoke about the amendment.

PUBLIC COMMENT PERIOD ENDED.

There being no further discussion,

Thomas Hughes MOVED and Melinda Shain SECONDED a motion to recommend adoption by the Town Council of the proposed Land Use and Development Code amendments to Chapter I, Zoning Regulations, Section V – Definitions by adding definitions for Airstrip, Runways and Landing Strips as amended by the Planning Board. Motion CARRIED, 6 ayes (James Anderson absent). [7:20 p.m.]

ITEM 2 PUBLIC HEARING CONTINUED – 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 noted that there are three versions of this amendment language: the first is the Town Council’s version, the second is the version from the Board’s August 15 workshop, and the third is the Town Attorney’s review of the language from the Board’s August 15 meeting. Mr. Poirier said that the Town Attorney recommends keeping the Council’s wording for the definition of “all-terrain vehicle” instead of the “off-road vehicle” terminology suggested by the Board because “all-terrain vehicle” is used in State law. The Town’s Attorney also recommended eliminating the language relating to fee or donation, as the concern with the use of property by multiple ATVs exists regardless of whether any sort of fee is paid or donation is made.

Insofar as the “motocross track” definition is concerned, the Town Attorney proposed two alternative definitions; the first one is for use of residents of the property only; and the second allows up to two ATVs or dirt bikes at any one time. The Town Attorney added language to both alternatives to say that a motocross track cannot be considered an accessory use and is only allowed in zoning districts where listed as a permitted or special exception use.

Mr. Poirier pointed out that the amendments for both airstrips and motocross, if approved by the Town Council, will take effect on July 16, 2013, so if any project has not been approved by that July 16 date, it would not be allowed to be considered under these ordinance changes.

Mr. Zelmanow said he did not like either version of the Town Attorney’s motocross track definition; the first one seems to permit only residents to ride on their property, and the second alternative limiting riders to two would prohibit a third family member from riding. Mr. Hughes and Ms. Shain agreed. After considerable discussion about quantifying the number of riders to be permitted and whether both racing and riding should be included in the definition, the Board agreed to continue the public hearing and to refer the motocross track definition to the Board’s ordinance subcommittee for further review.

PUBLIC COMMENT PERIOD OPENED: Hans Hansen, County Road, spoke about the difficulty in enforcing any restrictions, noting the problems encountered on his brother’s property. He said that probably neighbors will control the noise with their complaints.

Pam Nicely, 110 Mighty Street, said that friends can add up, and 8 or 10 or 12 ATVs or dirt bikes will sound very loud and asked how will sound restrictions be enforced. Mr. Zelmanow said that noise restrictions are already in place and will not be a part of this.
PUBLIC COMMENT PERIOD ENDED.

Ms. Shain noted that if there is a number established, it would be easy to determine from the number of bikes present if there is a conflict with the ordinance, regardless of the noise from the bikes.

Mr. Zelmanow encouraged the public to attend the workshop and participate in the discussion, and staff will provide notice of the date and time to those interested in attending.

Melinda Shain MOVED and Corey Theriault SECONDED a motion to table the item to the Board's Ordinance Subcommittee for review at a future September date and to continue the public hearing to the Board's October 7, 2013 meeting. Motion CARRIED, 6 ayes (James Anderson absent). [7:50 p.m.]

ITEM 3 PUBLIC HEARING – Land Use and Development Code Amendment:
Amendments to the Gorham Land Use and Development Code pertaining to Chapter II, Section III, Signs to allow off-site directional signs for farms.

Mr. Poirier explained that Planning staff recommended this amendment to the Town Manager and Town Council, who heard it at their August 6, 2013 meeting. Mr. Poirier said the proposed amendment is based on information received from a farmer in Gorham that there is an exemption under State law that allows farms to have 4 off-site premise signs within a 5-mile radius of the farm along public ways. The signs can only advertise agricultural products available for immediate sale, cannot exceed 8 square feet, must be directional in nature, and must be removed once the agricultural product advertised on the sign is no longer for sale. The proposed amendment would add the off-premise signs and to include them under the Performance Standards; in addition, staff is also recommending removing some language from F. Permitted Residential Signs which restricts the amount of time that a farm can have a sign on the premises.

“Chapter II: Zoning Regulations, Section III – Signs, D. Prohibited Signs, Displays, and Related Materials, 1), :

- o) Off-Premises Signs: All signs must be located on the same lot as the use or occupant that is the subject of the sign or where the goods or services are available except as specifically provided for in this section. Off-premises signs are allowed only for Exempt Signs in accordance with subsection C., Official Business Directional Signs in accordance with subsection H., ~~and~~ Business Park Identification Signs in accordance with subsection I, and Farm Stand Signs in accordance with subsection E. Performance Standards, 13) Farm Stand Directional Signs.

E. Performance Standards:

- 13) Farm Stand Directional Signs: Farms which sell produce at the site where that produce is grown are eligible for farm stand directional signs. The provision allows

for a maximum of 4 signs to be installed within a 5 mile radius of the farm. The signs may not exceed 8 square feet, must be directional in nature, and must advertise only the agricultural product available for immediate purchase. Signs must be placed so they do not block site sight distance for any road intersections or driveways and are not a traffic hazard. The signs cannot be illuminated by any means and must be removed once the agricultural produce advertised on the sign is no longer available.

A sign permit is required prior to placement of any Farm Stand Directional Signs. The sign permit shall include a description and picture of the signs being installed and a map which shows the locations for all signs being installed and the distances from the farm. The sign permit shall be renewed annually. “

Ms. Shain confirmed with Mr. Poirier that the language matches the State exception. Mr. Poirier replied to Mr. Zelmanow’s question that the applicant needs to apply for a permit which will be reviewed by the Code Enforcement office. Mr. Poirier said that a provision can be added to the permit that the sign will be located in the right-of-way unless permission is granted in writing from a private property owner. Mr. Fox pointed out a typographic error in E. 13) in the sentence “Signs must be placed so they do not block *site* distance...” which should read “...do not block *sight* distance...” The Board concurred that with the error corrected, the amendment language could be recommended to the Town Council for adoption. Mr. Zelmanow asked whether there is a definition in the Code of a “farm.” Ms. Sunnell said that a commercial farm would have a business license. Ms. Shain said that the language has a definition embedded in it, ‘Farms which sell produce at the site where that produce is grown...’

PUBLIC COMMENT PERIOD OPENED: Hans Hansen, County Road, spoke about making sure that signs of this kind are not put on private property without the consent of the property owner. He also said that the farm stand should belong to a real farmer.

Jenn Grant, 147 Might Street, said she was the one who was interested in having off-site directional signs. She has a farm stand on Might Street licensed with the State; they have DOT signs that they have a farm stand on Might Street. They would like to put up signs at the end of Might Street as no one knows about the farm stand unless they actually drive down Might Street. She said such signs would also work for Maine Maple Sunday farmers.

PUBLIC COMMENT PERIOD ENDED.

Melinda Shain MOVED and Corey Theriault SECONDED a motion to recommend adoption by the Town Council of the proposed Land Use and Development Code Amendments to Chapter II, Section III – Signs, by allowing off-premise farm stand directional signs. Motion CARRIED, 6 ayes (James Anderson absent).

ITEM 4 PUBLIC HEARING – 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/L2.008, Industrial zoning district.

Mr. Poirier explained that this applicant received Planning Board site plan approval on May 16, 2011 to locate its business in a new 7,400 square foot building and 25,600 square feet of impervious

surface. The company has now outgrown its original approval and wishes to add a 3,200 square foot building addition for office space, storage and shop space, with additional pavement for parking, as well as a gravel road to the grassed under-drained soil filter. Because the additional impervious area will exceed the amount set for the applicant's lot, the original Site Location of Development Permit for the industrial subdivision, dated September 6, 2002, will have to be amended with the DEP; once that DEP approval has been received, staff will place the applicant on for subdivision amendment review by the Planning Board on a future agenda. Mr. Poirier said that staff is also researching whether the project will need to comply with the Town's Stormwater Ordinance, Chapter II Post Construction Stormwater Management. Mr. Poirier suggested that the Board decide if a site walk is warranted.

Mr. Poirier confirmed with Ms. Sunnell that the 2011 landscaping was installed and the Planning Board's intent was met.

Rob McSorley, P.E., Sebago Technics, introduced the application saying that the applicants have found that they need more room with a 3,200 foot expansion of their existing building and some associated pavement area. He said that under the DEP Site Location of Development Permit, each lot in the subdivision had a prescribed amount of impervious area approved under the stormwater designed for the original subdivision. The applicants are looking to exceed that amount and have met with DEP to discuss that. DEP has agreed that the site currently meets stormwater requirements, and the applicants now need to provide treatment and attenuation for the additional impervious area proposed on the site. Right now they are roughly 1000 square feet under the threshold, and when completed they will be a little more than 10,000 square feet above the threshold. They have prepared a stormwater system to provide treatment not only for the impervious area being proposed, but some additional impervious area. DEP has asked for a treatment table on the stormwater post-treatment map, and also have asked that the model be modified to show that the pre-acreage matches the post-acreage; they will be meeting with DEP shortly to go over those comments.

Mr. McSorley said that a resubmittal is proposed to answer all the comments made by staff. An updated letter from Norway Saving Bank relating to financial capacity will be submitted. All the landscaping from the original approval has been installed; however, they would like the Board to consider leaving the existing tree cover on the northern boundary rather than removing it to install more. Additional screening has been added for parking along the roadway. Mr. McSorley discussed the full-cut off lights that will be mounted on the building and said that the new building color will match that of the existing building. They would like to start construction in late fall of this year with completion in the spring of next year. The gate proposed in Phase I was omitted accidentally but will be on a future plan submittal; it will be installed in the future. Mr. McSorley said that the drainage pipe will be relocated along the property line, and that the applicants have provided adequate fall protection based on the location of the guard rail. Mr. McSorley said that they have demonstrated that a WB67 tractor trailer can maneuver in and around the site with no difficulty.

Mr. Zelmanow asked for a brief overview of what kind of business East Coast Communications is involved with and what the outdoor storage area will be used for; Mr. McSorley replied that East Coast deals with cellular communication towers, and is a provider for construction and maintenance. The outdoor storage area will be for structural components that will be assembled and transported off site. Mr. McSorley showed Ms. Shain the location of the delivery doors and said

that there will be no loading dock. Mr. Hughes asked about the 10,980 square feet of additional impervious area and the apparent discrepancy with the 36,490 square feet shown on the current plan; Mr. McSorley said the plan has been revised to show what would be allowed with a subdivision amendment for this lot and lot 6. Mr. Poirier replied to a query from Mr. Hughes that each lot has its own maximum of impervious area; any allowable overage impervious area has been used by earlier applications.

Mr. Poirier confirmed that both Cyr Drive and Jenna Drive are built to Town standards but are private roads.

In reply to Ms. Shain, Mr. McSorley said that the tree line is over the northern property line, and in order to put trees along that property line, they would have to cut trees to put trees in. The Board agreed that a condition of approval could be crafted to deal with supplementing or replacing existing trees in the buffer areas in the future. Ms. Sunnell asked if there is landscaping along Cyr Drive now; Mr. McSorley pointed out the current landscaping. The Board has asked that for the site walk the 4 corners of the building be marked, the impervious surface for the storage area, the northerly property line, the maintenance drive to where the treatment system will be and the retaining wall location and an idea of its height.

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

Mr. Zelmanow said that staff will set up a site walk and the public hearing will be continued until the next time the item is on the Board's agenda.

OTHER BUSINESS

ANNOUNCEMENTS – Mr. Poirier noted that Maine Municipal Association will hold training for Board members in Saco on October 17, 2013; any Board member interested should contact staff to be enrolled for the training.

ADJOURNMENT

Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (James Anderson absent). [8:32 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2013