



Town of Gorham
March 3, 2014
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

Staff Present:

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.

APPROVAL OF THE JANUARY 6, 2014 MINUTES

Thomas Hughes MOVED and James Anderson SECONDED a motion to approve the minutes of January 6, 2014 as written and distributed. Motion CARRIED, 5 ayes (George Fox abstaining as not having been present at the January 6, 2014 meeting).

COMMITTEE REPORTS

A. Ordinance Review Committee. Mr. Zelmanow reported that the Committee met to discuss the ordinance amendments involving dog kennels and the campground overlay district. Mr. Poirier said there will be another meeting to discuss the campground overlay district item, but the committee has finished its work on the dog kennel issue and it will be forwarded for public hearing at the next Planning Board meeting.

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 that the Board is now short one member as Corey Theriault has submitted his resignation from the Planning Board. Mr. Zelmanow congratulated the Theriaults on the birth of their second child and thanked Mr. Theriault for his time and efforts as a Board member on behalf of the Town of Gorham and its residents. Mr. Zelmanow noted that there is therefore an opening on the Board and encouraged anyone interested in volunteering to serve to please contact the Town Clerk's office for this vacancy or any other committee position that is open.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier said there were nothing new to report regarding Administrative Review projects.

ITEM 1 Public Hearing – (Rescheduled from 02/18/14 meeting) - Gorham Land Use and Development Code – Amendments to Chapter I, Section IV, Zoning Board of Appeals

Mr. Poirier said that there was a revision to State statute 30-A MRSA §2691 concerning the authority of zoning boards, and the Town Attorney has recommended that the Code provisions for the ZBA be clarified to comport with the new revision. The Council forwarded the item to the Planning Board at its January 7, 2014 meeting.

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

George Fox MOVED and Rachel Sunnell SECONDED a motion to recommend adoption by the Town Council of the proposed ordinance amendment to Chapter I, Section IV, Zoning Board of Appeals. Motion CARRIED, 6 ayes. [7:06 a.m.]

ITEM 2 Public Hearing – (Rescheduled from 02/18/14 meeting) - Site Plan and Wireless Telecommunications Facility Amendment – Jane Plummer, representing the estate of Barbara King, request for approval to divide the property at 4 Burnham Road, located on Map 6, Lot 19, Suburban Residential zoning district.

Mr. Poirier explained that this parcel to be split has multiple uses on the site, which are a single family residence, a legally non-conforming roadside stand use, and a wireless telecommunication tower. The applicant would now like to split the lot, with one lot continuing to contain the nonconforming use and the other lot having a single family lot and the wireless telecommunication facility on it. The multiple uses on the parcel will require the site to receive multiple approvals under both minor site plan reviews conducted by Town Staff and a wireless telecommunication tower approval review conducted by the Planning Board. The proposed plan amendment is meant to amend both the minor site plans and wireless telecommunication tower approval. In order to simplify the review process, the Planning Board will be reviewing and approving both the minor site plan amendment and the wireless telecommunication tower amendment.

Staff has completed Findings of Fact regarding the relevant administrative review criteria, as well as the wireless telecommunication review criteria.

Vern Plummer, 12 Burnham, came to the podium and introduced his wife Jane, who is the personal representative of the late Barbara King. Mr. Plummer said that they had the entire lot surveyed and asked the two heirs to indicate what portions of the site they would like to have. Stephen J. Martin, PLS, then drew up the plans. It was found that there were 4 structures that would not have been in compliance with the setbacks, so 2 of those structures have been moved, one was dismantled and the other was moved off site. He believes that the site is now in compliance.

Mr. Hughes asked about the Fire Chief's comment about easements to the pond. Mr. Plummer said that would not be a problem. Mr. Zelmanow confirmed that basically the application is to split the

parcel in two for the benefit of the heirs of the estate. Mr. Plummer said one lot will be suburban residential, and the other will accommodate the legally nonconforming roadside stand.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Mr. Plummer confirmed that he is satisfied with the Conditions of Approval.

Melinda Shain MOVED and James Anderson SECONDED a motion to grant Jane Plummer's request for site plan and wireless telecommunication facility amendment approval to split the lot located at Map 6, Lot 19, in the Suburban Residential zoning district, with Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 ayes. [7:15 a.m.]

ITEM 3 Private Way Amendment Review – (Rescheduled from 02/18/14 meeting) – Angelton Lane – Sarah Angelton – request for approval of an amendment to a 325' private way previously approved for the one-lot private way standards, changing the standards to the two-to-six lot private way standards, located at 101 Spiller Road, Map 79, Lot 12, Rural zoning district.

Mr. Poirier called the Board's attention to the staff notes that had been prepared for the postponed February 18, 2014 meeting, particularly Items of Note a) and b). He said a) refers to the actions taken at that time to try to resolve the outstanding issues on the private way, and b) refers to what was then the only outstanding problem, the location of the ditch shown on a piece of abutter Laney's property in the vicinity of the Spiller Road culvert. Mr. Poirier said that since that submission, the applicant has revised the plan and shown the proposed ditch to be located along Spiller Road and then on to the Angelton Lane private way. The Town Engineer has reviewed that proposed re-design and drainage; staff has distributed this evening a memo dated February 28, 2014 from the Town Engineer regarding her review of that plan and the re-located ditch.

Andy Morrell, BH2M Engineers, came to the podium on behalf of the applicant and reminded the Board that when the application was last before it in December, he had been asked to work things out with the abutters, Matt and Reiko Laney. The applicant has been working with the Laney's, and as a result of a meeting held on January 15 among the applicant, Mr. Morrell, and Town staff, certain things have changed since the Board last saw the application. They include the removal at Mr. Laney's request of the riprap swale from his property; as the Board had requested, BH2M was granted permission to go on Mr. Laney's property to locate the limit of disturbance, which is now shown on the plans; the vegetated ditch that has been constructed on Mr. Laney's property is to be removed and all site conditions stabilized, loamed and seeded and returned to original site conditions. The plans have updated to reflect these changes. Also discussed was the removal of some large stones and debris which are now shown on the plans to assist the contractor in moving forward to remove them from the Laney property. Mr. Morrill said that since the meeting in January, 5 different sets of revisions have been done to the plans, addressing comments from either the Town Engineer or the abutter, trying to work through a lot of these issues. The most notable of these revisions has been the relocation of the ditch into the Spiller Road right-of-way and then along the Angelton Lane right-of-way, thereby assuring that no runoff will be directed onto the Laney property until it enters the wetlands on the Laney property.

Mr. Morrell confirmed to Mr. Zelmanow that he is not aware of any outstanding issues that need to be resolved with the abutter. Mr. Morrell said there is nothing in writing from the abutter stating that he is satisfied with what is proposed.

Ms. Shain confirmed that once an approval is granted, the remediation work will begin and all of the materials would be removed. Mr. Morrell concurred, saying that the applicant will have to work with the abutter to determine when the work should be completed, which Mr. Morrell suspects would be this spring. Mr. Morrell pointed out that the plan contains a paragraph entitled “Laney Property Restoration Plan” which outlines the proposed remediation.

PUBLIC COMMENT PERIOD OPENED:

Matt Laney, abutter at 91 Spiller Road, came to the podium and gave an overview of what has happened in the last 6-1/2 months, noting that the applicant has been trespassing on his property during that time. He described the meeting held on December 11 after the Board’s meeting as a “disaster” and said he felt “ambushed.” After that meeting he said he spoke to several attorneys, all of whom recommended a survey, which had been done but which was disregarded by the applicant in the construction of the private way. Another meeting was held on January 15, 2014, wherein he asked that all modifications be removed and his property returned to its original condition as shown on the May 13, 2013 plan when the private way was approved. Mr. Laney showed the Board a plan which breaks down into sections the various incursions made on his property by the applicant, consisting of three sections of damage, including a section of fill and one of riprap. He then showed the Board a series of plans prepared by the applicant’s engineer, delineating proposed remediation and showing various contour lines; however, none of these plans satisfies Mr. Laney that his property would be returned to the original May 13, 2013 status. Mr. Laney said that at some time the Town’s Engineer became involved and advised the applicant’s engineer to put the ditch line along Spiller Road in the Town’s right-of-way, which is shown in a plan dated February 27 which still does not comport to the May 13 plan. However, even though the ditch is to be moved, the fill area is not shown on the plan as being removed. Mr. Laney asked why there is no motion for denying this project and said the Board needs to help him out.

Mr. Morrell said he has no comments to make in reply to Mr. Laney’s comments.

Mr. Zelmanow summarized the situation, saying that there was an approved plan, the work was not done pursuant to the approved plan, there is an abutter’s property that has been put in a condition that it was not supposed to be in, and we do not have a plan to return it to that condition. He said that he does not believe that the Town of Gorham has the power to force the applicant to fix the abutter’s property, and asked if Mr. Poirier concurred. Mr. Poirier said that currently the applicant has before the Board a proposal to remedy the situation, but there is an issue according to the abutter about a couple of contour lines which need to be rectified. Mr. Morrell said that the contour lines shown on the May 13 plan are existing topography shots taken as part of the original topography of the parcel. Mr. Morrell said that when the applicant decided to proceed with a two-to-six lot private way, staff asked that rather than using conditions existing prior to the project, they were asked to provide existing conditions of what the site looks like now that the road has been constructed, which is much more detailed than the original plan. At Ms. Shain’s request, Mr. Morrell pointed out on photos what it looks like now compared to what it looked like before.

Mr. Anderson asked Mr. Poirier if there is an inspection process by the Code Enforcement Officer once the abutter and the applicant have come to terms on what remediation needs to be done. Mr. Poirier replies that it will be the Town's Engineer doing the inspection as part of the reconstruction of the private way, working with the applicant's contractor to insure that the remediation is done properly.

Mr. Zelmanow confirmed with Mr. Laney that basically what he wants is to have his property restored to the way it was as shown on the approved May 13, 2013 plan, and asked Mr. Morrell if it were possible to do that. Mr. Laney said he thought it could be accomplished, inasmuch as through the Town Engineer's efforts, according to the February 27 plan, the riprap area will be dealt with and his concern now is with the fill area which slopes ten feet on to his property. In reply to Mr. Zelmanow, Mr. Morrell said it can be done, and they thought they had done it but they will meet with the applicant to determine what he wants and try to do it. Mr. Hughes asked if the two-to-six lot could still go through if the fill area is removed; Mr. Morrell said it could. Ms. Shain and Mr. Hughes asked if the fill area detracted from Mr. Laney's property. Mr. Zelmanow said there could be two ways of dealing with the issue: either Mr. Laney's property is completely put back to the way it was, or he agrees to leave part of it as is in exchange for compensation. Mr. Morrell asked staff to set up a meeting with Mr. Laney.

Ms. Shain said that tabling the item would allow another meeting to take place but if the Board were to deny it, that would basically subject the two parties to a lawsuit. Mr. Poirier said it is his understanding that the last sticking point is a grade issue down the private way regarding the fill on Mr. Laney's property. He said he believes that this would be a quick fix on AutoCAD to return Mr. Laney's property to its pre-disturbed condition and then to ask the Town Engineer to review it. Mr. Morrell confirmed that it would be a quick fix on AutoCAD. Mr. Poirier asked Mr. Laney if the Town Engineer reviews it to address Mr. Laney's concerns per his comments this evening, would Mr. Laney be satisfied. Mr. Laney nodded his head in agreement.

PUBLIC COMMENT PERIOD CONTINUED:

Sue Neily, 222 Buck Street, came to the podium and told the Board about drainage issues and resulting culvert damage she is experiencing due to continued building in the area impacting drainage. Mr. Morrell and Ms. Neily discussed the flow of drainage from the Angeltun parcel; Mr. Zelmanow suggested that they continue their discussion after the meeting.

Al Rumery, 212 Buck Street, abutter, said that everything that has happened since the May 13 meeting is due to the fact that the applicant violated the Board's original approval. He said that he believes that it was not by accident that the road was built to the wrong standard but that it was done intentionally. He urged the Board to protect the abutter by not approving the private way amendment built in part on land "stolen" from the abutter until Mr. Laney's property has been restored. He said that he is upset that someone can ask for approval of something that knowingly involves someone else's property.

PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow said that the Board does not have civil enforcement authority once an approval is granted, and that a denial of the application would result in civil litigation. Ms. Shain said she believes it would be more efficient within the confines of the Board's processes to table this matter.

Thomas Hughes MOVED and George Fox SECONDED a motion to table final consideration of the application. Motion CARRIED, six ayes. [8:09 p.m.]

10 Minute Break

ITEM 4 Pre-application Discussion – (Rescheduled from 02/18/14 meeting) – Michael and Melissa Gould request for approval to create a 3-lot subdivision on 4.27 acres at 138 Shaws Mill Road, Map 80, Lot 31.1, Suburban Residential zoning district.

Mr. Poirier reminded the Board that this pre-application conference is to allow the Board to review the plan and identify any concerns with the proposal, as well as to make suggestions as to what may be possible on the site. Because this is a pre-application, the plan has not been submitted as yet to staff for review. Mr. Poirier noted that this is a four lot subdivision. He said that the Board may want to discuss any waivers that the applicant may seek.

Wayne Wood, Wayne T. Wood & Company, came to the podium and introduced himself as representing the applicants.

Mr. Hughes confirmed with Mr. Wood that three curb cuts are proposed for the three additional lots. Ms. Shain remarked about the driveways and street across from the development and recommended consideration be given for the location of the proposed driveway. Mr. Wood said he can show where a proposed driveway would be, and would make sure that it is not lined up so that headlights shine into one drive from another. Mr. Zelmanow noted that private water and sewer are being proposed. Mr. Hughes asked about the feasibility of coming in off the existing driveway to eliminate any more curb cuts on Shaws Mill. Mr. Wood confirmed to Mr. Zelmanow that the remaining land of Gould will be numbered as one of the lots.

Mr. Wood asked about the need for a high intensity soils survey, saying that the parcel is sitting basically on a gravel pit, with an active gravel pit abutting the site. In reply to Mr. Zelmanow, Mr. Wood said that would be the major waiver and there are no wetlands on the site. Mr. Poirier said that when an applicant seeks approval for private septic systems, the Board can consider granting waivers for a nitrate plume analysis, the high intensity soils survey, expansion of the two-foot contours on the Gould lot, and wetland delineation. Mr. Wood said that a wetland delineation has already been done and that the contours are predominately one foot as the site is consistently flat.

Mr. Poirier suggested giving the applicant some feedback for the preparation of his preliminary subdivision plan as to whether a waiver for nitrate plume analysis would be granted. In reply to Mr. Zelmanow's question about the location of the wells and test pits, Mr. Wood said the test pit will be in the septic system and the wells will be located no closer than the state minimum of 100 feet. Mr. Wood said he can put a well exclusion zone around each one. Ms. Shain said she is not inclined to waive the nitrate plume analysis when there is neither public water nor sewer. Mr. Fox said he supports Ms. Shain's position, as did Mr. Hughes. Mr. Wood said he can get some information from the soils scientist to help alleviate some of the Board's concerns. Mr. Zelmanow said that information could be used in support of a waiver request.

ITEM 5 **Public Hearing – Site Plan/Subdivision** – “Perennial Place at White Rock” – JCS3, LLC (Jon and Cindy Smith) – request for approval to convert the existing White Rock School into residential units for tenants 55 years or older, with associated outdoor space, landscaping and parking, located at 10 North Gorham Road, Map 89, Lot 14 and Map 92, Lot 2, Suburban Residential zoning district.

Mr. Poirier said this is the first time this application has come before the Board. He noted that in addition to site plan and subdivision review, this project will also be reviewed under the Town’s performance standards for multi-family housing.

Jon Smith introduced Cindy Smith and Wanda Emery of St. Germain-Collins. As background, Mr. Smith said that they responded to the RFP issued by the Town on the White Rock School and they have now purchased the property. This application is for twelve apartment units for 55+ tenants that will be rented for now, but ultimately it is their intention to convert the units to condominiums when the timing is appropriate. He said that the former School building is located at the corner of North Gorham Road and Route 237, with the parcel being approximately 13-1/4 acres in the Suburban Residential zone. The existing building is 11,532 square feet and the proposal converts the building. There are two baseball diamonds, a tennis court and a basketball court on the property which are located outside of the area required for the building itself, and the balance is under a recreational easement with the Town for the next 5 years. A smaller portion, which includes the tennis and basketball courts, is under an easement in perpetuity or until such time as the Town releases it. There is also a portable classroom on the property.

Mr. Smith explained that their proposal is to convert the building into twelve 55+ units with one community room for the benefit of the residents, and twelve individual storage units to comply with the storage requirements. Recreational easements have been provided around the building and along the roadway for the Town. He said that additional parking will be introduced along the front of the building, with 24 parking spaces to be provided, two per unit, and there will be a net reduction of 1172 square feet of asphalt. The building will be sprinkled with an underground water storage tank to be located at the back of the building. It is proposed that the existing 552 foot deep well will be used; it was a public water supply when the building was used as a school but will now not be a public water supply. The well will have adequate capacity for the proposed use, with a recovery rate of 6 gallons per minute. It is proposed to re-use the existing septic system, which was designed with a 6300 gallon per day capacity; the proposed requirement will be 1560 gallons per day, or 25% of capacity. The septic system has been preliminarily reviewed and inspected. Because of the existing septic system, it is their intention to request a waiver of the nitrate plume analysis, as well as a waiver for the high intensity soils survey. No changes are proposed to what is currently on site for stormwater management. Some shrubs are proposed to screen the parking, as well as adding more landscaping around the front sign. Impact on traffic will be significantly less than the prior use.

Mr. Smith then showed the Board elevations of the proposed changes to the building façade. Each unit will have either a single or a double door to a dedicated patio space out back, as well as a 1000 square foot individual storage unit.

The Board and Mr. Smith discussed at length the number of proposed parking spaces, parking for visitors, a designated number and location of visitor parking, covered parking for unit tenants’ parking, adding more than the one handicapped space currently proposed, possible use of gravel

area for parking and the gravel area used for event parking, parking spaces on west side of building, and areas where additional parking could be provided. Ms. Sunnell commented that the suggestion to have 3 parking spaces for a one bedroom apartment is overkill and that a better figure is 1-1/2 spaces per unit, which allows visitor parking. She said that she believes that the parking space width is more important and she would prefer to see parking spaces 10 feet wide versus additional parking. Ms. Sunnell also said her background in affordable senior housing indicates that the accepted ratio is 75% of the units having a car. Mr. Fox and Mr. Smith discussed traffic flow, with Mr. Fox suggesting that one way traffic flow could facilitate parking along the gravel area. Mr. Smith referred Mr. Zelmanow to the plan sheet with the exterior lighting information.

Mr. Hughes asked which well will be used; Mr. Smith pointed out the location of both the new and the old well. Mr. Smith said they do not intend to keep the play area.

Mr. Anderson asked what will happen to the ball fields after five years when the easements expire. Mr. Smith said he does not know yet how the ball fields might be re-purposed. In response to Ms. Shain, Mr. Smith said two more units could be added in the future but much remains to be done before then. Mr. Smith said that the snow storage areas will be located on the plans. In reply to Mr. Hughes, Mr. Smith said there will not be any fees assessed from the renters. Ms. Shain asked about adding perhaps more trees at the back of the building. Mr. Fox commented that as a resident of North Gorham he is pleased to see a good productive use for this property and thanked Mr. Smith for his efforts with the proposal.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Mr. Poirier noted that the applicant will be moving forward with waiver requests for the nitrate plume analysis and the soils survey and asked if the Board would have any concerns about those requests. Mr. Zelmanow said that the nitrate analysis probably would not be needed. Ms. Shain said that the proposed use will be far less than that previously and there is an existing well on site with a new well even further from the septic system, but it would be useful to have some information to support the waiver requests. Mr. Smith pointed out that the distribution lines were built 20 feet apart to allow the insertion of additional lines ten feet apart. Mr. Zelmanow summarized that there is no need for a high intensity soils survey and said he would be OK with approving a waiver request; the Board concurred.

The Board directed that a site walk be scheduled.

ITEM 6 **Private Way Review** – Justin and Kelly Dearborn – request for approval of a 561’ private way (Cameron Way) off Davis Annex to serve two lots, located at Map 38, Lot 3, Suburban Residential zoning district.

Mr. Poirier noted that the applicants are proposing a private way to serve two lots. He said that the applicants are requesting a waiver from the requirement to install a paved apron because both the proposed private way and the end of Davis Annex are gravel roads. Mr. Poirier said that the Public Works Director is recommending that instead of paving that piece, the applicants use the same amount of pavement that would be used for a paved apron to overlay the portion of Davis Annex

that abuts Flaggy Meadow, which is anticipated to be approximately a one-inch overlay some 80 feet in length. Findings of Fact and Conditions of Approval have been prepared for the application.

Andy Morrell, BH2M, told the Board that the application was last before it on October 7, 2013. Since that time, the applicants have revised the number of lots to be served by the private way from six lots to two lots. A 20' grading easement is required on the property of En and Amy Wu; however, Mr. Hughes noted that a 30' foot easement is shown on the Lot Division Plan. Mr. Morrell confirmed that 20' is the correct figure and the Lot Division Plan will be corrected. Mr. Morrell noted that a letter dated March 2, 2014 from Mr. Wu has been provided which gives the required easement to the applicants. However, the Town's attorney has said that the Board should not approve plans showing an easement on abutting property that has not been executed. The Town's attorney identified two ways that the Board could move forward with approval this evening: one is to provide the Board with proof that the 20' grading easement has been established and the other is to require that the private way be re-designed so that the deed is no longer needed. The applicants are requesting that the Board condition approval so that a recorded easement can be provided prior to the Board's signing the mylar.

Mr. Morrell referred to the waiver request of the requirement for a paved apron and to the Public Works Director's request that instead the applicants install some pavement at the intersection of Davis Annex and Flaggy Meadow. The applicants would prefer not to have to take this approach and hope to be treated in the same way as other projects have been in the past, such as Young's Way, a 2002 approval on the same road, wherein the Public Works Director agreed that if and when Davis Annex were ever to be paved, a paved apron would be put in.

In reply to Mr. Zelmanow, Mr. Poirier suggested that the Board could ask the Public Works Director why he recommended that the paving overlay be installed at Davis Annex and Flaggy Meadow. Mr. Fox said he felt it is a bit of a stretch to ask the applicants to pave that section and does not see the logic of the request. Ms. Shain confirmed with Mr. Morrell that the private way will be built to the 2 to 6 lot standard and said she does not like to disregard what the Public Works Director says. Mr. Zelmanow noted that the private way is limited to serve 2 lots, and if it is proposed in the future to increase the number of lots, Condition of Approval #13 requires that the applicants will have to come before the Board again, at which time the Board can impose paving requirements. Mr. Zelmanow said that the Board is reviewing the proposed Cameron Way, and the Public Works Director is asking that the applicants do an improvement to Davis Annex and Flaggy Meadow Road, which is an offsite improvement, without some explanation of why that will benefit Cameron Way and the two lots it is to serve. Mr. Morrell pointed that the applicants built the existing turnaround at the end of Davis Annex in 2002 and deeded it to the Town.

Justin Dearborn, applicant, came to the podium said he has paid \$16,000 in taxes over the years on the property and gave the Town a \$30,000 turnaround so the buses could turn around, and all he is asking for is that the Board do for him what it did for Mr. Young in 2002. He said that he does not believe that an inch of pavement as requested by the Public Works Director will hold up.

Mr. Zelmanow said that there are two things under consideration by the Board: one is the paved apron waiver and the other is the paving at the intersection of Davis Annex and Flaggy Meadow as requested by the Public Works Director. Mr. Zelmanow summarized the applicants' waiver request, quoting that "... since the proposed Cameron Way (a gravel road) is to be constructed off Davis Annex (another gravel road) therefore, a paved apron is not warranted in this location."

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to grant Justin and Kelly Dearborn's request to waive the requirement for a paved apron under Chapter II, Section V, H, 4). Motion CARRIED, 6 ayes. [9:10 p.m.]

Mr. Hughes said he agreed with Mr. Fox about the Public Works Director's request for the paving overlay and said that it was a request and not a requirement. Mr. Zelmanow said he sees no justification for the improvement at Davis Annex and Flaggy Meadow and that it would not give a direct benefit to Cameron Way considering it will serve only two lots. The Board concurred.

In connection with the Wu easement, Mr. Poirier read new Condition of Approval #15 that "That the applicant shall provide copies of the recorded grading easement shown on Map 38, Lot 3.001, prior to the Planning Board's endorsement of the final plan."

In reply to Mr. Zelmanow, Mr. Morrell said he will confirm that the turnaround on Davis Annex has been deeded to the Town and provide the reference on the plan. Ms. Shain confirmed that Condition of Approval #13 will limit Cameron Way to serving two lots unless the applicants return before the Planning Board. Mr. Morrell confirmed that the Conditions of Approval are satisfactory to the applicants.

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

Melinda Shain MOVED and James Anderson SECONDED a motion to grant Justin and Kelly Dearborn's request for approval of a 561 foot private way constructed to serve two lots on 15.97 acres off Davis Annex, located on Map 38, Lot 3, and situated in the Suburban Residential zoning district, based on Findings of Fact and with Conditions of Approval as written by the Town Planner and amended by the Planning Board. Motion. Motion CARRIED, 6 ayes. [9:51 p.m.]

ITEM 7 Discussion – Gorham Land Use and Development Code – amendments to Chapter II, General Standards of Performance, Section V – Minimum Standards for the Design and Construction of Streets and Ways, H. Standards for Private Ways.

Mr. Poirier explained that the Town's Attorney has said that the private way standards in the Land Use and Development Code are unclear about the Board's ability to require off-site improvements to public and private roads serving a proposed private way. The proposed amendments are designed to clarify the Board's ability to insure that the roads that serve private ways are safe and can handle additional traffic being generated by the proposed private way. The off-site improvements would be limited to roads that are the principal route of travel and deemed unsuitable to handle the additional traffic. Mr. Poirier said that the Board can review the proposed amendment either in a meeting of its ordinance subcommittee and then in a public hearing at a full Board meeting. Once the Board has reviewed the item, it will be forwarded to the Town Council's ordinance committee for their review and then on to the full Council.

Mr. Zelmanow said he believes the item is ready for a full public hearing in April.

OTHER BUSINESS Mr. Poirier noted that the ordinance subcommittee needs a third member and a new chairman, since Mr. Theriault was the past chairman. Ms. Sunnell volunteered to serve on the subcommittee. Mr. Poirier said a meeting of the subcommittee will need to be scheduled to discuss the proposed campground overlay zoning amendment, and at that time a new subcommittee chairman can be elected.

ANNOUNCEMENTS **NONE**

ADJOURNMENT

Thomas Hughes MOVED and James Anderson SECONDED a motion to adjourn. Motion CARRIED, 6 ayes. [9:55 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2014

ITEM 2 JANE PLUMMER, REPRESENTING THE BARBARA KING ESTATE, SITE PLAN AND WIRELESS TELECOMMUNICATION FACILITY AMENDMENT

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

CHAPTER VI, WIRELESS TELECOMMUNICATIONS FACILITIES, SECTION VI – Standards of Review, E. Setbacks.

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, and Chapter VI, Wireless Telecommunications Facilities, Section VI – Standards of Review, of the Town of Gorham Land Use and Development Code.

Because no physical changes are proposed to the site and no increased use of the site is proposed with this amendment, most of the Standards are not applicable, as indicated below.

CHAPTER IV, Section IX – Approval Criteria and Standards

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

The proposal is to split the existing parcel identified on the tax map as Map 6, Lot 19 into two parcels, identified as Lots A and B on the amended plan. Lot A (Map 6, Lot 19) will retain 121, 646 sq.ft. of land area with 454' +/- of street frontage and Lot B (Map 6, Lot 19-1) will retain 81,208 sq.ft. of land area with 213' +/- of street frontage. No changes to existing buildings or features on the site are proposed.

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.

Lot A will continue to be accessed from Burnham Road. Lot B will continue to be accessed from County Road (State Routes 22 and 114). No additional traffic is proposed to be generated by the proposed lot split.

Finding: County Road, State Route 22 and State Route 114, and Burnham Road 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.

Vehicular access for Lot A will continue to be to enter/exit the site from three paved driveways and one gravel driveway from Burnham Road. Vehicular access for Lot B will continue to be to enter/exit the site from one paved driveway located on County Road.

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.

Vehicular access on Lot A to the wireless telecommunication tower is separated from the vehicular access to the residential dwelling unit and accessory residential structures. On Lot B the rear of the lot is graveled and open to vehicular circulation to the rear of the site. The driveway access to Lots A and B are also interconnected and allow access to cross through both Lots. No changes are proposed to the internal vehicular circulation of either Lot.

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.

No sidewalks are located on the lot or along Burnham Road or County Road (State Routes 22 and 114). No changes to the pedestrian vehicular circulation are proposed with the amendment.

Finding: *Not applicable.*

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 does not have any formal stormwater management infrastructure. Stormwater is allowed to infiltrate the groundwater or sheet flow to the lower portions of the site. No changes to the storm water management are proposed with the amendment.

Finding: *Not applicable.*

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.

No construction or soil disturbance is proposed with the amendment.

Finding: *Not applicable.*

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.

Lot A is served by an existing private well located in the Burnham Road right-of-way in the vicinity of the single-family residence. The newly proposed Lot B is to be served by a well located in the center of the Lot. No changes are proposed to the water supply systems of either Lot.

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.

Lot A is served by two existing septic systems. One of the septic systems serves the existing single-family dwelling unit and the other septic system serves the pool house. Lot B does not have any provision for sewage disposal because the existing farm stand does not have any bathroom facilities. No changes to the existing sewage disposal systems 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.

Lots A and B are served by overhead utility lines from a utility pole located within the Burnham Road right-of-way. No changes to the utility services are proposed.

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.

No disturbance of natural features on Lots A or B is proposed with the amendment.

Finding: *Not applicable.*

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.

Lots A and B proposed uses are to remain the same and no changes to the existing uses are proposed.

Finding: *Not applicable.*

M. Exterior Lighting: The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

Lot A will retain exterior lighting that is typical of a single family dwelling and a wireless telecommunication facility. Lot B has exterior lighting located to the east and western ends of the existing farm standing building. No changes to the exterior lighting of either Lot are proposed.

Finding: *Not applicable.*

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

Waste disposal for Lot A for the single-family residence will be through the Town of Gorham's residential waste disposal contractor. The waste disposal for Lot B will be through a private waste disposal contractor. No changes to the waste disposal systems of either Lot A or B are proposed.

Finding: *Not applicable.*

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.

Lot A's landscaping includes numerous street trees along the Burnham Road right-of-way and other trees and shrubs located along the single-family dwelling, existing barn, and farm pond. Lot B's landscaping includes a street tree and a raised landscaping island located around the farm stand sign. No changes to the landscaping of either Lot are proposed.

Finding: *Not applicable.*

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.

Neither Lot A nor Lot B is located in the Shoreland Overlay District.

Finding: *Not applicable.*

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.

The applicant is acting as executor of the will of Barbara King with the proposed lot split being financed through the estate of Barbara King. The applicant has hired Steve Martin to perform all required site and boundary plans and easement deeds requiring recording for the proposed lot split.

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.

Lot B has a wooden stockade fence which is located along a portion of the eastern property line to buffer the farm stand use from the abutting property. Lot A does not have any buffer area. No buffer area is proposed between Lots A and B.

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 (7 a.m. - 7 p.m.) and 60 dBA nighttime (7 p.m. - 7 a.m.).

Finding: The development will comply with the A-weighted hourly equivalent sound level limits of 70 dBA daytime (7 a.m. – 7 p.m.) and 60 dBA nighttime (7 p.m. – 7 a.m.).

CHAPTER VI, Wireless Telecommunications Facilities - Section VI – Standards of Review

E. Setbacks A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be setback one hundred ten percent (110%) of its height from all property lines, whichever is greater, provided, however these setback requirements shall not apply to co-location on structures that exist as of the date of adoption of this ordinance.

In Districts where such towers are allowed, the setback maybe be satisfied by including the areas outside the property boundaries if secured by an easement. However, the setback may not be reduced to less than the standard setback for such districts in any case.

The wireless telecommunication tower and base is located outside of any required setbacks for the new lot A boundaries. The proposal is to locate the one hundred ten percent of the wireless telecommunication tower height area on Lot B in an easement to the owner of the wireless telecommunications facility. The easement will be recorded once within 60 days of site plan approval.

Finding: The proposed lot split meets the requirements of Chapter VI, Wireless Telecommunications Facilities, Section VI, Standards of Review, E.

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 grant the Town of Gorham the required Fire Pond Easement meeting the approvals of the Town of Gorham;
4. That Lot B shall have the required easement deed prepared and recorded for the wireless telecommunication tower easement area shown on the site plan within 60 days of site plan approval;

5. That all relevant conditions of approval from past Site Plan and Wireless Telecommunication Facility approvals shall remain in effect;
 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.
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ITEM 6 JUSTIN AND KELLY DEARBORN, CAMERON WAY PRIVATE WAY

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 applicants plan to get approval of the private way to serve two lots. Both lots located along the private way are required to have no more than two dwelling units.

Finding: The approved private way is designed to the two to six lot private way standards and the applicant is proposing to construct the private way to serve only two lots.

- 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 applicants have 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 of Private Way for Cameron Way has been prepared by a registered land surveyor and sealed by a registered professional engineer meeting the requirement 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.

The applicant has provided a Declaration of Maintenance of a Private Way because the private way will serve two lots once the future lots splits have occurred.

Finding: *A maintenance agreement has been submitted and reviewed detailing the maintenance requirement for each lot served by the private way.*

- 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.

Based on the fact that Cameron Way, the proposed private way, and Davis Annex, a Town-maintained road, are both gravel roads, the Town of Gorham waives the requirement for a paved apron at the existing edge of pavement where it intersects with the private way.

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.

The 561' private way has been designed to serve two lots. The applicants are proposing to build the gravel private way to a greater standard than the standards of a typical two to six lot private way. The proposed standard would be to build the private way to the gravel section and width of a rural access road.

Finding: *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.

The number of dwelling units and/or lots allowed to be served by the private way shall be limited to a total of four.

Finding: *The proposed private way is being designed to the Town's two to six lot private way standard, so no more than two dwelling units can be located on a lot served by the private way to a total of more than six dwelling units and/or lots.*

- 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). The proposed new lot will have 94,374 sq.ft. which is enough lot area to meet the minimum Suburban Residential lot size. The lot to retain ownership of the private way has 13.16 acres and once the private right-of-way is taken out of the lot, there is more than enough to meet the lot sizes in the Suburban Residential District. Any future lot being created will need Planning Board review and approval. The fee interest in the right-of-way will remain with the lot (M38/L3) shown on the plan.

Finding: *The land area of the private way will not be used to satisfy the minimum lot area requirements for the existing lot or any proposed future lot.*

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 prior to any modification to the Lot Division Plan, Sheet 1, the applicant shall return to the Planning Board for review and approval;
14. 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;
15. That the applicant shall provide copies of the recorded grading easement shown on Map 38, Lot 3.001, prior to the Planning Board's endorsement of the final plan;
16. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
17. 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.