



Town of Gorham
October 6, 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

Members Absent

SCOTT HERRICK

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 Scott Herrick was absent.

APPROVAL OF THE SEPTEMBER 8, 2014 MINUTES

Melinda Shain MOVED and James Anderson SECONDED a motion to approve the minutes of September 8, 2014 as written and distributed. Motion CARRIED, 6 ayes (Scott Herrick absent).

COMMITTEE REPORTS

A. Ordinance Review Committee. In Mr. Herrick's absence, Mr. Zelmanow said there is no report for this committee.

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

CHAIRMAN'S REPORT – No report.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier reported called the Board's attention to a new section on the tracking sheet that deals with Land Use Code text and map amendments. He said there are no new administrative review projects.

ITEM 1 PUBLIC HEARING - SITE PLAN AND SUBDIVISION REVIEW - R.P.

WEEMAN, LLC - request for site plan approval of a phased expansion to the existing building and expansion of the gravel outdoor storage areas to 17,910 square feet and request for subdivision amendment approval to the lot's maximum impervious area identified on the New Portland Parkway Subdivision Plan, located at 22 Jenna Drive, Map 29/Lot 2.009, Industrial zoning district.

Mr. Poirier advised the Board that this item is on for site plan and subdivision review, but the applicant's engineer has asked that it be tabled in order to address review comments. Mr. Poirier recommended opening the public hearing and asked the Board if members wish to have a site walk. The Board's consensus was that a site walk is not warranted. Mr. Poirier recommended that the Board keep the current information provided until new information is received.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to table Item 1 pending responses to outstanding issues. Motion CARRIED, 6 ayes (Scott Herrick absent). [7:07 p.m.]

ITEM 2 PRELIMINARY AND FINAL SUBDIVISION REVIEW – Lilac Lane Subdivision

– Bauer & Gilman Construction, LLC - request for approval of a 9-lot clustered subdivision, located at 91 North Gorham Road, Map 92/Lot 17, Suburban Residential-Manufactured Housing zoning districts.

Mr. Poirier told the Board that the item was last before it on August 4, 2014, and a site walk was held on August 18, 2014, with minutes from each included in the Board's packets. He noted that the applicant is requesting a waiver of the Board's policy to require separate meetings for preliminary and final subdivision approvals. Mr. Poirier said that the applicant has submitted a Class B High Intensity Soil Survey; however, the ordinance calls for a Class A Soil Survey and therefore there should be a discussion with the applicant as to whether the Board is willing to grant a waiver of the Class A requirement. Mr. Poirier said the Findings of Fact reflect the fact that there are some staff comments which still need to be addressed.

Tom Farmer, Wright-Pierce, introduced Jan Wiegman and Chris Cronin and gave a brief overview presentation of the project. He said that a nitrate analysis has been prepared, and well areas and the detention basin are shown. Mr. Zelmanow asked why a Class B was performed when a Class A was required; Mr. Farmer replied that he saw only that a high intensity soil survey was required and not specifically a Class A survey. Mr. Farmer said that a Class A is a much smaller mapping unit, meaning more test pits on site, and a Class B is pretty common even at the DEP level. Mr. Poirier remarked that the Code says that the Code does not say Class A or Class B, it says "... identifying each soil for any separate area of one-eighth of an acre or larger in size," so the mapping size of one-eighth leads to Class A. Mr. Farmer said that a nitrate analysis has been done, there was enough information from the Class B to perform that.

Mr. Zelmanow asked if the Board could waive the Class A requirement and accept the Class B instead. Mr. Poirier said the Board can waive a submission requirement of the Ordinance. He said

that if this project were going forward under the Rural district requirements and net residential calculations were required, a Class A would be necessary and the Board could not waive that requirement, but in this case the Board can waive the requirement.

Mr. Farmer said that they have addressed almost all of staff's comments and those of the Town's review engineer. Mr. Hughes asked why the houses are to be sprinkled; Mr. Farmer said a fire pond would be allowed under the Ordinance, but the Fire Chief strongly recommended sprinkling. Mr. Zelmanow asked if the Fire Chief's issue about the turning radii for the driveways has been addressed; Mr. Farmer replied they will make it whatever the Chief wants.

Mr. Zelmanow said a resubmission needs to go back to staff addressing all the open items, and some of the preliminary approval criteria has not been met. Mr. Anderson asked Mr. Farmer to explain why a DEP permit is not required. Mr. Farmer replied that the applicant intends to sell two or three lots to buyers who will build their own homes, and therefore a DEP storm water permit will not be required as the total impervious area will be under the one acre threshold. Mr. Farmer said that if the developer were to develop all of the lots, that would trigger a requirement for the DEP permit. Mr. Anderson asked Mr. Poirier if that should be noted on the plans; Mr. Poirier replied that if the applicant intends to develop only certain lots, the Board could condition approval to say a certain number of lots would be sold outside of the developer completing the project. Mr. Poirier said that the DEP requires that in subdivisions that are built by developers, all of the house lots and the road must be considered as part of their stormwater treatment calculations. However, if a developer is only building the road and selling lots, all he has to treat is the road runoff. Mr. Farmer said generally it would be any two of the lots that would keep them under the threshold.

Mr. Farmer told Ms. Shain that no street trees are proposed for the lots. Ms. Sunnell said that with the wooded wetlands there are a lot of trees between the property lines, so there is a substantial amount of buffer. Mr. Farmer said that there are a number of mature trees outside of the right-of-way that will be kept.

Mr. Farmer said a timeline of items to be done before spring would include some of the land clearing, earth work for the roadway, and utilities. In reply to Ms. Shain, Mr. Farmer said that the homes will be both purpose-built and spec homes.

Regarding whether to accept the Class B soil survey, Ms. Sunnell said she believes that there are enough test pits, the undeveloped wetlands would not be done anyway, and the really important areas are done, so there is a good picture of what is happening and the Class B is sufficient. Mr. Farmer said of the 17 acre site, some 8 acres are wetlands, the soil survey was done mostly for the nitrate impact analysis, and there is not much in the way of varying soils. In reply to Mr. Anderson, Mr. Farmer said that based on a discussion with the soils scientist, not much more information would be gained if more test pits had been dug,

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to grant Bauer & Gilman Construction, Inc.'s request to waive the submission requirement in Chapter III, Section III B. 11) for a Class A High Intensity Soil Survey and to permit a Class B High Intensity Soil Survey. Motion CARRIED, 6 ayes (Scott Herrick absent). [7:35 p.m.]

PUBLIC COMMENT PERIOD OPENED:

Mr. Poirier read the following email into the record from Michael Weisman:

“Hi, Tom, I haven’t seen any info on my request for a letter of record pertaining to my future private way issue. I was hoping to have something before the Oct. 6, 2014 planning board meeting. I do not have access to email during the day so if you need to reach me my cell phone # is 207-650-2616. Would you make my concerns known to the planning board and hopefully I can be there also. Thanks. Regards, Mike Weisman.”

Mr. Poirier explained that Mr. Weisman may in the future wish to construct a private way to serve his property, and he is looking for something from the Public Works Director saying that staff would support a waiver, if necessary, of the distance requirement of that potential private way with what is planned for Bauer & Gilman’s private way. Mr. Poirier said it can be discussed with the Public Works Director, but those criteria are highly subjective and can change in the future.

Michael Weisman, 96 North Gorham Road, said his concern is down the road when he gets ready to do something with his 50 acres, is the door still open. He would like to get something from the Public Works Director that there is no issue and he could proceed. If the Public Works Director wouldn’t allow him to proceed, Mr. Weisman would like to see this road pushed back further. Mr. Zelmanow said he does not believe the Public Works Director can allow or disallow Mr. Weisman’s proposed private way as it is something that would have to come before the Planning Board. Mr. Zelmanow suggested that Mr. Weisman talk to Mr. Burns about a possible future plan.

Carissa Chipman, 97 North Gorham Road, asked whether abutters would be advised of possible blasting, and would their property be examined to make sure no damage is done. Mr. Farmer said that none of the soils information went deep enough to determine where ledge is so no borings have been done. Mr. Poirier said that the Town does not have any specific regulations about blasting, state law requirements prevail, and state law requires the developer to notify an abutter and ask if the abutter wants to have his home inspected.

Jan Wiegman, Wright-Pierce, replied the state does require that a pre-blast survey is done for some distance around the development, which he believes is half a mile. Public notice must be given to abutters, and blasting companies do this as a matter of good business practice. Mr. Zelmanow asked if a Class A soils survey would have revealed ledge. Mr. Wiegman replied that the soil test pits done for a Class B are the same as done for a Class A, the only difference is the size of the inclusions being discovered, that is, different soils within a particular area. So a Class A will discover an 1/8th inclusion within this area; and with the uniformity of the soils in the area, it is unlikely that any other inclusion would be discovered. Mr. Wiegman said the test pits don’t go any deeper.

PUBLIC COMMENT PERIOD ENDED

Mr. Poirier said that as this is a resubmission, if the applicant can provide what is necessary this week, staff will try to schedule the item on the November Board agenda. Mr. Poirier said the Board could grant preliminary approval this evening; and place the item on the Consent Agenda for November and the applicant could bring the final plans to that meeting for signature.

The Board agreed that preliminary could be granted this evening with final approval to be considered at the November meeting. Mr. Poirier asked whether the Board wants a condition of approval regarding the two lots that need to be sold or should it be a line item on the plan. The Board concurred that a line item needs to be added to the plan specifying that two lots need to be sold off.

Melinda Shain MOVED and James Anderson SECONDED a motion to grant Bauer & Gilman Construction, Inc.’s request for preliminary approval of Lilac Lane Subdivision and Private Way located on Map 92, Lot 17, in the Suburban Residential-Manufactured Housing zoning districts based on Findings of Fact as written by the Town Planner. Motion CARRIED, 6 ayes (Scott Herrick absent). [7:50 p.m.]

Melinda Shain MOVED and George Fox SECONDED a motion to place the item on the November 3, 2014 Consent Agenda for final approval. Motion CARRIED, 6 ayes (Scott Herrick absent). [7:52 p.m.]

ITEM 3 PRELIMINARY SUBDIVISION REVIEW – Longfellow Wood – Normand Berube Builders, Inc. – request for approval of an 11-lot subdivision with a 1,500 foot roadway built to public road standards at 101 Longfellow Road, Map 11/Lot 22.001, Rural-Manufactured Housing zoning districts.

Mr. Poirier advised the Board that this item was last before the Board on August 4, 2014, at which time there was significant discussion about the extension of sewer and sidewalks along Longfellow, as well as a possible waiver for nitrate plume analysis. The applicant has provided a cost estimate for extending sewer from where it ends in Westbrook approximately 1500 feet to serve the subdivision, with a mix of gravity and low pressure sewer pumps, which the applicant has estimated at \$189,400. The Code Enforcement Officer has provided a cost for a typical subsurface waste disposal system of between \$10,000 to \$15,000 per house, or approximately \$137,500 for 11 septic systems in the subdivision. Staff as well sought the opinion of the Town’s attorney on what constitutes “undue hardship.” The Public Works Director provided an estimate for sidewalks and stormwater drainage along Longfellow Road of \$82,500. For sidewalks in the subdivision, the road is curbed with closed drainage, so adding sidewalks in the subdivision would be a nominal cost. If there were open drainage and ditching, the cost would be higher.

Mr. Poirier said that some of the proposed findings would need to be amended, depending on whether the Board chooses in favor of public sewer or private septic systems.

Steve Blake, BH2M, described the project as being 500 feet west of Lowell Road on Longfellow Road. The proposed road length will be 1500 feet, underground utilities would include water and potentially natural gas. Open space is proposed at the end of the cul-de-sac, which would also include a wet pond. The project will create more than one acre of impervious area so it will require a stormwater management permit with DEP, as well as a permit-by-rule application for a stream crossing for the road.

Mr. Zelmanow noted that the subdivision is not within 500 feet of as public sanitary sewer, so the Board needs to consider if it would be an undue hardship to require the developer to connect to the sewer system. He referred to the Town Attorney’s definition of “undue” as excessive, unreasonable

or unjust. Mr. Blake replied to Mr. Hughes that the \$50,000 differences in costs would be a significant hardship from the developer's perspective. Mr. Hughes said he would not hesitate to buy a house for \$2,000 or \$3,000 more in order to get public sewer as opposed to a septic system, and that public water and public sewer would make the subdivision more desirable. Mr. Zelmanow said to run sewer would cost about \$17,000 per unit, and to build a septic system could be from \$10,000 to \$15,000, so the average difference is \$4,700 per lot. Mr. Zelmanow asked Mr. Blake what the total cost of the project would be; Mr. Blake said that a preliminary estimate for the infrastructure improvement, part of the package, is about \$350,000. Mr. Fox confirmed with Mr. Blake that the applicant proposes to build the houses, but Mr. Blake did not know what price points for the houses would be.

Mr. Zelmanow said he would pay \$4,700 for public sewer over having to worry about a septic system. Mr. Blake commented that each house would have to have a low pressure sewer pump. Ms. Shain said she does not believe that these are going to be low income homes, so the distinction in price and the benefit of public sewer would be a benefit, not only for the homeowners but for the area as well. Mr. Anderson said he believes that \$4,700 is a small price to pay and believes it is worth not having to worry about the potential problems with a private septic system. Mr. Zelmanow said he believes that having public sewer would also be good for marketing. Mr. Hughes said he would prefer that the developer go the public sewer route. Mr. Zelmanow noted that the ordinance says they have to, and the burden of showing undue hardship to put in public sewer is on the developer.

Mr. Zelmanow confirmed that the decision on private or public sewer needs to be made before preliminary approval can be granted. Mr. Blake said he will take the issue back to the developer. Mr. Zelmanow noted that a nitrate analysis waiver will need to be completed.

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

Mr. Poirier asked if the Board prefers sidewalks inside the development or along Longfellow. The Board concurred that there should be sidewalks inside the development but not along Longfellow.

10-Minute Break

ITEM 4 SUBDIVISION AMENDMENT – PRIVATE WAY REVIEW – Brian and Stacie Leavitt – request for subdivision amendment and a 502 foot private way (Kayli-Susan Drive) built to the 2-6 lot standards to serve one existing and one proposed lot, located at 105 and 109 Files Road, Files Road Subdivision, Map 74/Lots 5.002 and 5.003, Suburban Residential zoning district.

Ms. Sunnell said she needs to recuse herself from discussion on this item because for this item to go forward, she and her husband need to sell a portion of property to the applicant and they have not come to agreement on that.

Melinda Shain MOVED and James Anderson SECONDED a motion to recuse Ms. Sunnell from participation in the discussions on the item. Motion CARRIED, 5 ayes (Rachel Sunnell abstaining and Scott Herrick absent).

Mr. Poirier advised the Board that in the applicant is proposing to amend lots C1 and C2 of the original subdivision to create a new lot to be served by a private way as well as to serve lot C2. Mr. Poirier said the Board may wish to discuss with the applicant the list of submission requirements that the Board would be willing to waive.

Andrew Morrell, BH2M Engineers, said that this 4-lot subdivision dates back to 1991. The applicant is proposing to create a new lot from the back of lot C1 and C2 and creating a new lot. The new private way is proposed as a 2 to 6 lot private way, and will also serve C2 as its frontage on Files Road has now been reduced below the minimum required. In order to meet the front setback requirement on parcel C2 for the existing house, a land swap is needed with the Sunnells and needs to be resolved before moving forward. Mr. Morrell said there will be drilled wells, subsurface waste water disposal systems, and above-ground utilities. Mr. Morrell said the applicant would want a waiver for a high intensity soils survey and the requirement for two-foot contours for lots C1 and C2 of the old subdivision.

In response to Ms. Shain, Mr. Morrell said the private will serve a new lot and C2, where there is an existing house, and C1 is served off Files Road. Mr. Morrell showed where portions of an existing driveway will be eliminated, and said there will be an easement over the existing driveway.

The Board agreed that no site walk is required.

PUBLIC COMMENT PERIOD OPENED: Dick Pratt, 96 and 112 Files Road, discussed the original Leavitt Drive subdivision approval and drainage. He provided the Board with photographs of an existing fire pond and culverts and said he does not believe the original criteria was met. He said the current application should not go forward until the issues with the original approval have been corrected.

Rachel Sunnell, 115 Files Road, abutting neighbor, referred to the property which the applicant needs to purchase from her, saying that what was initially proposed in July is not what is shown on the plans, that basically the plans show a "take" to which they did not agree. There has been no discussion on this prior to what is now before the Board. She said that once ditching goes in, the root system of trees remaining on their property will be destroyed, and she is not in support of continuing in this direction at this time.

PUBLIC COMMENT PERIOD ENDED.

Mr. Fox said that in light of the abutters' comments, he would like to reconsider having a site walk as it is probably worth taking a look at the site. The rest of the Board concurred, and staff was directed to schedule a site walk. Ms. Shain asked if the current subdivision was built in accordance with plans. Mr. Poirier said staff has to do some research about what was approved and if it meets that approval, but he believes Mr. Pratt was talking about the Leavitt Drive subdivision, which is behind the parcel. Mr. Morrell confirmed with Mr. Pratt that he was talking about the subdivision approved in 2004 and there are two developments built by the same developer that combine together to drain onto the Pratt property. Mr. Poirier asked Mr. Morrell to identify any culverts on the plans. Mr. Morrell said that parcels A and B for the land swap with the Sunnells are staked out,

as well as the limited clearing along the Sunnell property. He confirmed that the center line of the road is also staked out. Mr. Zelmanow suggested that the applicant meet with the Sunnells before the site walk.

Melinda Shain MOVED and George Fox SECONDED a motion to table further review of Brian and Stacie Leavitt's request for subdivision amendment and private way approval pending responses to remaining issues and the site walk. Motion CARRIED, 5 ayes (Rachel Sunnell abstaining and Scott Herrick absent). [8:51 p.m.]

Ms. Sunnell returned to the dais.

ITEM 5 LAND USE & DEVELOPMENT CODE AMENDMENT – Discussion - Amendment to the Gorham Land Use & Development Code pertaining to Chapter I, Section V – Definitions to change the definition of structure regarding patios.

Mr. Poirier said that this item came about because someone built a patio within a setback. Patios that have either concrete, pavers, brick or other impervious surfaces currently are not allowed within a setback, but a driveway of the same material is allowed in a setback. The proposed amendment proposes to allow patios that are at ground level, not a deck, made of such materials, in a setback. The state, however, still considers patios in the shoreland area as structures. Mr. Poirier confirmed to Ms. Shain that driveways are also considered to be structures in shoreland areas.

Melinda Shain MOVED and James Anderson SECONDED a motion to forward the item to the Planning Board's ordinance committee (6 ayes, Scott Herrick absent). [8:54 p.m.]

ITEM 6 LAND USE & DEVELOPMENT CODE AMENDMENT – Discussion - Amendments to the Gorham Land Use & Development Code pertaining to Chapter I, Section VI – Urban Residential District, Section VII – Suburban Residential District, and Chapter II, Section XII: – Keeping of Urban Farm Animals to allow the keeping of domestic farm animals and livestock for the sale of products and to allow pasture fencing within the setbacks.

Melinda Shain MOVED and Thomas Hughes SECONDED a motion to forward the item to the Planning Board's ordinance committee (6 ayes, Scott Herrick absent). [8:55 p.m.]

ITEM 7 LAND USE & DEVELOPMENT CODE AMENDMENT – Discussion - Amendments to the Gorham Land Use & Development Code pertaining to Chapter I, Section IX- Village Centers District to allow creative parking solutions.

Melinda Shain MOVED and Thomas Hughes SECONDED a motion to forward the item to the Planning Board's ordinance committee (6 ayes, Scott Herrick absent). [8:56 p.m.]

OTHER BUSINESS

NONE

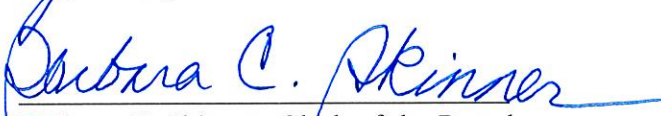
ANNOUNCEMENTS

NONE

ADJOURNMENT

Thomas Hughes MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Scott Herrick absent). [8:58 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board
October 6, 2014