



**Town of Gorham
July 20, 2015**

PLANNING BOARD MINUTES

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
SCOTT HERRICK
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 JULY 13, 2015 MINUTES

Mr. Zelmanow announced that the minutes for the July 13, 2015 meeting were as yet not ready for review.

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Herrick reported that the committee had met earlier this evening to discuss the proposed McLellan/Sampson conditional zone, which will be coming back before the Board.

 - B. Streets and Ways Subcommittee** – Ms. Shain reported that this subcommittee has not met since the last Board meeting.
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CHAIRMAN’S REPORT

Mr. Zelmanow noted that there is still a vacancy on the Planning Board and suggested that anyone interested in joining the Board should contact the Clerk’s office for an application.

ADMINISTRATIVE REVIEW REPORT

Mr. Poirier reported that there are no new administrative review projects.

Mr. Zelmanow stated that while he was not present when this next item was reviewed for preliminary approval on February 9, 2015, he has reviewed all of the materials presented for tonight's review and believes that he can participate in the discussion on the item.

ITEM 1 SUBDIVISION REVIEW: - CONTINUED FROM JULY 13, 2015

Laura Lane Subdivision: Bauer & Gilman Construction, LLC is requesting approval of a 10-lot clustered subdivision on 17.13 acres with a 1,213' paved private way built to the 7-10 lot private way standards. The property is located at 108 Shaws Mill Road on Map 80 Lot 31 in the Suburban Residential-Manufactured Housing (SR-MH) zoning district. The applicant's agent is Tom Farmer, R.L.A., of Wright-Pierce.

Mr. Poirier noted that the Board had granted preliminary approval on February 9, 2015. One item carried over from that meeting was the applicant's request for a waiver from the high intensity soils survey requirement, asking that a Class B survey be permitted instead of the required Class A. The Board had requested that staff secure an opinion from a soils scientist on the submission; which staff has done from Albert Frick with Albert Frick Associates, Inc. Mr. Frick's recommendation, included in the Board's packet, states that the current soils survey work is sufficient for the proposed development.

Mr. Poirier noted that as this review was continued from the Board's meeting of July 13, staff and the applicant's engineer have in the intervening week been able to resolve all of staff's comments so there are no outstanding comments from the Town Attorney, Town's review engineer Woodard & Curran or staff.

Tom Farmer, Wright-Pierce Associates, noted that DEP stormwater permit approval has been received, as well an amendment to the permit. He said that the Town Attorney has no further comments.

Mr. Zelmanow brought up the question of the waiver request for the high intensity soil survey.

Scott Herrick MOVED and Rachel Sunnell SECONDED a motion to grant Bauer & Gilman Construction, LLC's request to waive the submission requirement under 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. [7:12 p.m.]

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

Mr. Zelmanow confirmed that the applicant is satisfied with the Conditions of Approval.

George Fox MOVED and Scott Herrick SECONDED a motion to grant Bauer & Gilman Construction, LLC's request for final subdivision approval for Laura Lane Subdivision and Private Way on Shaws Mill Road located on Map 80, Lot 31, in the Suburban Residential-Manufactured Housing zoning districts based on Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 ayes. [7:15 p.m.]

ITEM 2 PRIVATE WAY REVIEW -CONTINUED FROM JULY 13, 2015

Fort Libby Drive - Matthew Libby request for approval of a 600' private way built to the 2-6 lot private way standard to serve one family gift lot. The property is located off 340/342 Fort Hill Road on Map 64 Lot 14 and Map 43 Lot 30 in the Rural (R) zoning district.

Mr. Poirier told the Board that as this project was continued from last week's meeting, staff had the opportunity to work with the applicant to address outstanding staff comments. The new name for the private way is "Fort Libby Drive."

Andrew Morrell, BH2M, appeared on behalf of the applicant, Matt Libby, who also was present. Mr. Morrell told the Board that the applicants own a parcel of land approximately 35 acres in size off Fort Hill Road, north of Longview Drive. The applicant's father lives on this parcel, and the applicant recently purchased another parcel, M64/L60, that had a house on it that was donated to the Gorham Fire Department. The intent is to construct a duplex on the parcel which will not be served by the private way but which will come off Fort Hill Road. Proposed is a 600 foot private way, built to the 2-6 private way standards, which will serve a family gift lot and possibly one additional future family lot. Public water will be extended from Fort Hill Road and there will be underground electric. Proposed is a vegetated ditch on either side of the road directing runoff away from Fort Hill Road to the end of the private way and a level spreader.

Mr. Morrell said that all staff and Woodard & Curran's comments have been addressed.

Mr. Zelmanow noted that approval has not yet been received from the Portland Water District for the 8" watermain to be extended to serve any proposed houses served off the private way. At Ms. Sunnell's request, Mr. Morrell "walked through" the plan with the Board. Mr. Libby and Ms. Shain discussed the abandoned status of Mill Pond Road and that it is occasionally used by snowmobilers.

Mr. Poirier confirmed to Mr. Zelmanow that all of Woodard & Curran's comments have been addressed. Ms. Shain asked if a condition of approval be created to deal with the Portland Water District approval. Mr. Poirier suggested a new Condition #12 "That the applicant shall receive Portland Water District approval prior to the Planning Board's endorsement of the final plan." Mr. Morrell confirmed that the applicant is satisfied with the Conditions of Approval.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Melinda Shain MOVED and Scott Herrick SECONDED a motion to grant Matthew Libby's request for a 600' private way designed to the Town's 2-6 lot/dwelling unit private standard, located on Map 64, Lot 14 and Map 43, Lot 30, and situated in the Rural district, Shoreland Protection Overlay district, and Stream Protection sub-district, based on Findings of Fact and with Conditions of Approval as written by the Town Planner and amended by the Planning Board this evening. Motion CARRIED, 6 ayes. [7:30 p.m.]

ITEM 3 PRIVATE WAY REVIEW - CONTINUED FROM JULY 13, 2015
Deerfield Drive - Gregory and Sue McCormack request for approval of a 422' private way built to the 2-6 lot private way standard. The property is located off Maplewood Drive on Map 104 Lots 30 and 10.3 in the Urban Residential (UR) zoning district.

Mr. Poirier said that similar to the last project, this item was continued from the July 13 meeting so staff and the applicant's engineer have had an opportunity to submit some additional information and to address staff comments. Mr. Poirier noted that the applicant owns some lots in the back that are in the Urban Residential zoning district and should the applicant wish to proceed with a subdivision in the future, the extension of public sanitary sewer would be required under the Town's Waste Water Ordinance. If sewer is provided, smaller lots would be permitted. The applicant is waiting for Portland Water District approval of the proposed 8" watermain to be extended.

Andrew Morrell, BH2M Engineers, said that the applicant is proposing a 422' private way built to the 2-6 lot private way standards off the end of Maplewood Drive. Public water and underground electric will be extended from the end of Maplewood Drive. Stormwater will be collected in a vegetated ditch brought to the end of the roadway and down to a level spreader. All of the staff's and Woodard & Curran's comments have been addressed, and they are waiting for approval from the Portland Water District for the proposed watermain, which were submitted in June.

Ms. Shain inquired about the applicant's position about extending sewer. Mr. Morrell said that the applicant has looked into the possibility, but as the distance is a little over 700 feet to connect along Maplewood Drive from the existing sewer system to the end of the road, nothing more than family gift lots are envisioned for the future, so the extension of public sewer is not a viable financial option for the applicant at this time. Mr. Morrell said that should the applicant decide to build out the parcel, it would require the extension of public sewer at that time.

Ms. Sunnell asked about the relationship of the stream to the road extension. Mr. Morrell replied that the stream is off the applicant's property.

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

Ms. Shain suggested adding the same Condition of Approval for Portland Water District approval as was done for the previous application. Mr. Poirier read new Condition of Approval #13, "That the applicant shall receive Portland Water District approval prior to the Planning Board's endorsement of the final plan." Mr. Morrell said the applicant is satisfied with the Conditions of Approval.

Melinda Shain MOVED and James Anderson SECONDED a motion to grant Gregory and Sue McCormack's request for approval of a 422' private way designed to the Town's 2-6 lot/dwelling unit private way standard, located on Map 104, Lot 10.003 and Lot 30, and situated in the Urban Residential district, based on the Findings of Fact and with the Conditions of Approval as written by the Town Planner and amended by the Planning Board this evening. Motion CARRIED, 6 ayes. [7:35 p.m.]

ITEM 4 PRE-APP DISCUSSION: - CONTINUED FROM JULY 13, 2015 - Subdivision Review: Guy Gledhill d/b/a Gledhill Group, LLC request for approval of Bramblewood Estates, a 10-unit residential condominium project. The property is located on 4 acres off Bramblewood Lane on Map 25 Lot 7.001 in the Urban Residential (UR) zoning district.

Mr. Poirier explained that this parcel is located at the end of Bramblewood Lane. A Development Transfer Overlay application was approved on an abutting parcel and its road provides street frontage for this parcel. This application is for approval of 10 residential condominiums requiring both subdivision and site plan approval. Mr. Poirier told the Board that the Town currently has a drainage easement located at the end of Bramblewood which runs to a pond on the northerly property boundary.

Dustin Roma, Milone & MacBroom, Inc., appeared on behalf of the applicant Guy Gledhill of Gledhill Group, LLC. Mr. Roma reminded the Board that the primary concern of the Bramblewood subdivision, approved three years ago, was drainage; however, the project has been built out and those issues were satisfactorily addressed. Mr. Roma said that the existing Bramblewood Lane is approximately 500' to the end of the hammerhead, and the applicant is proposing an extension of 300' from the end of the existing hammerhead to the far end of the last proposed condominium unit. Because of the geometry of the lots, some of the wetlands configurations and the pond, an extension of the public road into the property is not feasible, so the condominium use is the best fit for the area.

Considerable time has been spent in trying to deal with the drainage issues, and several site walks with DEP and the Army Corps have been held. The wetland permits have been applied for, and they worked out what is the extent of necessary avoidance and minimization of the wetlands, with a proposed impact of 6,500 sf of wetland area. DEP is waiting for final grading plans showing that the project can actually fit within the scope of the wetland disturbance areas shown on the plans.

Mr. Roma said the project will have public water, tied into the public sewer system with the actual infrastructure for the development will be privately maintained low pressure pump station system for the septic to pump into the existing low pressure line in Bramblewood Lane. Underground electric and cable will be extended to the property.

Ms. Shain asked about the proposed width of the road. Mr. Roma said it is 22 feet wide and each unit will have a garage and an additional parking space in the driveway. In reply to Mr. Zelmanow, Mr. Roma said the road will be a private drive and not an extension of Bramblewood Lane. Mr. Roma said that a clustered mailbox may be out on South Street. Mr. Roma said that the footprint of a proposed building is around 2,000 feet, including the garage. In reply to Mr. Zelmanow, Mr. Roma said that the buildings will be sprinkled if that is a requirement. Mr. Roma said there is one fire hydrant at the intersection of Bramblewood and South Street, and if the Fire Chief wants another hydrant at the end of Bramblewood where this development begins they will put one there.

Mr. Roma explained the proposed drainage, saying they wish to keep it separate from Bramblewood by directing drainage to an extended existing culvert and a new culvert and convert it to a level spreader and stormwater detention. Mr. Zelmanow commented about drainage going to the parcels to the east.

Mr. Anderson asked if there are sidewalks on Bramblewood that would be extended into this project. Mr. Roma said there are sidewalks on one side and they will look into extending them. A discussion ensued about screening of the abutters' property, such as fencing or landscape screening. Ms. Sunnell asked that there be street trees and suggested some thought be given to front door placement and encouraged a connection between a front door and the driveway. Mr. Zelmanow suggested adding landscaping between the units.

Ms. Shain suggested that the applicant meet with some of his abutters about some of the drainage impacts. Mr. Zelmanow said a sitewalk will be scheduled once plans have been received.

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

Guy Gledhill said he has met with abutting neighbors to talk about the project and its possible impacts.

ITEM 5 PRE-APP DISCUSSION: - CONTINUED FROM JULY 13, 2015 -Subdivision Amendment Review - STJ Inc. request for approval of an amendment to the 1996 Village Crossing Subdivision to construct a 6-lot subdivision on Lot 1 of the Village Crossing Subdivision. The property is located on 2.17 acres at 12 Cumberland Lane on Map 27 Lot 5.001 in the Office Residential (OR) zoning district.

Mr. Poirier explained that this lot is actually part of an older subdivision known as Village Crossing Subdivision. Lots 2 and 3 in the Subdivision have been developed with condominiums, one lot is open space for the development, and what is under discussion this evening is Lot 1, located northeast of Cumberland Lane. This then is an amendment to the original Village Crossing Subdivision. Mr. Poirier noted that there is a requirement in the Land Use Code for sidewalks for developments in the Office Residential zoning district. Cumberland Lane does have sidewalks which extend its length, and there is a cross walk across Main Street. There is no sidewalk on the south side of Main Street in the vicinity of the lot, and the closest one ends roughly at Hawkes Farm Subdivision, 1,700 feet westerly at the intersection of Main Street and Tink Drive. Mr. Poirier said that on the old subdivision plan there is a 200' setback from Main Street identified on Lot 1. Staff has researched the files dealing with Village Crossing Subdivision, but has not been able to discover a reason why the setback was identified on Main Street. Mr. Poirier said that the applicant's engineer may have more information about the setback.

Andrew Morrell, BH2M Engineers, said that the original Village Crossing Subdivision was completed in 1996 and all the lots have been developed except this one. He reminded the Board that some two years there had been a proposed development that came before the Board from Random Orbit, Inc. which was not pursued. The current applicant is proposing a 6-lot single family residential subdivision, with all the lots fronting along Cumberland Lane. All lots would be served by public water, natural gas, sewer and underground sewer, all existing in Cumberland Lane.

Mr. Morrell said that the original 1996 subdivision had some restrictions that only allowed multi-family housing on this parcel. Random Orbit obtained an amendment to that restriction to allow detached housing including residential condominiums. Mr. Morrell said the applicant would like to

have the Board's opinion of the current proposed use, and said that staff recommended that the applicant seek a legal opinion to provide to the Board. That opinion was received today for the Board's review.

Mr. Morrell explained that after extensive research, it appears that the original intent of the 200' setback mentioned by Mr. Poirier was to have residential use on lots 2 and 3 and have a commercial use on lot 1. The original developer, Custom Built Homes of Maine, put the 200' setback on this lot in anticipation of a commercial use on the property because they wanted a similar setback to the abutting Galilee Church. Mr. Morrell confirmed to Mr. Zelmanow that the applicant is seeking the removal of the 200' setback.

Mr. Zelmanow and Mr. Morrell discussed the driveway placement for the first lot in the proposed subdivision. Ms. Shain confirmed with Mr. Poirier that the Board will review this as a new development, not identified with the 200' setback that was put on it previously and reviewed as to whether it meets the current ordinance. Mr. Morrell showed an overview of the lot's location and confirmed that Cumberland Lane is a public road. Mr. Morrell told Mr. Zelmanow that the common open space, about 5-1/2 acres, would be available to the residents of this development and they would be part of the homeowners' association. Mr. Poirier replied to a query from Mr. Zelmanow that the Public Works Director would want a clustered mailbox installed. Mr. Morrell said there is a light at the entrance. Ms. Sunnell noted that there should be street trees and landscaping and said she likes the single family lots that create a community feeling. Tom Shaw, with STJ, said they plan on doing the earthwork but does not believe they will build the houses, which probably will be about 2,000 to 2,500 square feet.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

The Board concurred that a site walk will be scheduled after an application has been received. The Town Attorney will review the letter provided by the applicant's attorney about the use of the property.

OTHER BUSINESS NONE

ANNOUNCEMENTS NONE

ADJOURNMENT

Melinda Shain MOVED and James Anderson SECONDED a motion to adjourn. Motion CARRIED, 6 ayes. [8:30 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2015

ITEM 1 FINAL SUBDIVISION REVIEW – BAUER & GILMAN – LAURA LANE SUBDIVISION AND PRIVATE WAY

FINDINGS OF FACT

For

LAURA LANE CLUSTERED RESIDENTIAL SUBDIVISION AND PRIVATE WAY

Applicant/ Property Owner: The applicant is Bauer & Gilman Construction, LLC, 361 U.S. Route 1, Falmouth, Maine 04105.

Property: The lot is identified as Tax Map 80, Lot 31, and is located off Shaws Mill Road.

Consultant: Thomas Farmer, Maine Licensed Landscape Architect, Jan B.S. Wiegman, Professional Engineer #5852; Wayne Wood, Professional Licensed Surveyor #1328; Mark Cenci, Maine Certified Geologist #467 and Maine Licensed Site Evaluator #262; Mark Hampton, Maine Soil Scientist #216; and Richard A. Sweet, Certified Geologist #100.

Project Description: The applicants are proposing to construct a 10-lot clustered subdivision served by a 1,203' paved private way. The lots will be served by underground utilities, private individual wells, and individual on-site subsurface disposal systems.

Site Description: The parcel is 17.10 acres in size and fronts on Shaws Mill Road. The parcel is currently undeveloped. Vegetation on the lot is woodlands with the topography slightly sloping from east to west. No wetlands or other water bodies are located on the site. A system of trails is located on the site which connects to trails located on abutting properties.

Applicability: Subdivision regulations identify the Planning Board as having review and approval authority.

Zoning: Suburban Residential-Manufactured Housing (SR-MH) District where a single-family home is a permitted use per Chapter I, Section VII, Subsection B. 1) of the Code.

Variances: None required.

Waivers: No waivers required.

Pursuant to the Application:

A Pre-application Discussion was held on August 4, 2014.

A Preliminary Subdivision Review was held on November 3, 2014.

A Site Walk was held on November 17, 2014.

Preliminary Subdivision Approval was granted on February 9, 2015.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

Wright-Pierce plans:

Subdivision Plans

Cover Sheet –07/14/15
Final Plan – 07/15/15
Sheet C1 – General Notes, Legend & Abbreviations – 07/14/15
Sheet C2 – Existing Conditions Plan – 07/14/15
Sheet C3 – Layout and Utilities Plan – 07/14/15
Sheet C4 – Nitrate Plume, Soils and Well Location Plan – 07/14/15
Sheet C5 – Plan of Private Way – 07/14/15
Sheet C5.1 – Grading Plan of Private Way – 07/14/15
Sheet C6 – Erosion Control Notes and Details – 07/14/15
Sheet C7 – Details I – 07/14/15
Sheet C8 – Details II – 07/14/15
Sheet C9 – Pre Development Drainage Plan – 07/14/15
Sheet C10 – Post Development Drainage Plan – 07/14/15

Other documents submitted consist of the following:

Sketch Plan Application – 07/01/14
Plans – 07/01/14; 09/30/14; 12/30/14; 06/10/15
Preliminary Plan Application – 09/30/14
Final Plan Application - 06/10/15
Wetlands Investigation and Preliminary Soils Report, Mark Cenci Geologic, Inc. – 08/27/14
Groundwater Impact Assessment, Nitrate Analysis, Mark Cenci Geologic, Inc. – 07/01/14
High Intensity Soils Report, Mark Hampton Associates, Inc. – 12/30/14
Preliminary Soil Investigation Report – Sweet Associates – 12/30/14
Groundwater Impact Study – Sweet Associates – 08/28/14
Soils Information Review – Albert Frick, Albert Frick Associates – 03/24/15
Stormwater Management Report, Wright-Pierce – 12/30/14; 06/10/15
Erosion and Sedimentation Control Plan, Wright-Pierce – 12/30/14; 05/26/15
Water Infiltration Testing Report – S.W. Cole - 12/30/14
DEP Permit #L026602-NJ-A-N
DEP Permit Amendment #L26602-NJ-B-M
Construction Cost Estimate – Wright-Pierce – 12/30/14; 06/10/15
Construction Detail Sheet – 12/30/14
Inspection, Maintenance and Housekeeping Plan – 12/30/14; 05/26/15
Letter of Financial Capacity, Norway Savings Bank, Peter H. Godsoe, Regional Vice President
Commercial Lending – 09/25/14
Class A Waiver Request – 10/24/14
Fire Truck Turning Template – 07/13/15
Wright- Pierce response to comments letter – 07/14/15

Proposed HOA Documents – 12/30/14; 06/10/15; 07/14/15
Gorham Town Planner Comments – 10/23/14; 01/26/15; 07/09/15; 07/15/15
Town Attorney Comments – 10/27/14; 07/09/15; 07/14/15; 07/15/15
Gorham Assessor Comments – 10/21/14; 01/06/15; 06/12/15
Gorham Fire Chief Comments – 10/09/14; 01/07/15
Gorham Code Enforcement Officer – 06/17/15
Gorham Public Works Director – No comments
Gorham Police Chief – No comments
Woodard & Curran – 10/20/14; 01/14/15; 06/18/15

CHAPTER III - SUBDIVISION, SECTION III - PRELIMINARY PLAN

The Planning Board, following review of the Preliminary Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter III, Subdivision, Section III – C. Preliminary Plan Review.

C. PRELIMINARY PLAN REVIEW

2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:

- a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter II.

The single-family lots range in size from 21,556 square feet to 27,490 square feet with street frontage for the lots ranging in size from 71.56 ft. to 238.36 ft.

The Comprehensive Plan identifies the future land use designation of this lot as Neighborhood with a Center.

The applicant has provided Clustered Development and Conventional Development Concept Plans. The conventional concept plan provided shows that the lot can support 10 single-family house lots.

Finding: Laura Lane Subdivision conforms with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

The subdivision lots will have legal road frontage on Laura Lane, which has been designed to the Town's 7-10 lot paved private way standards.

Finding: Laura Lane Subdivision will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

- c) Will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

The single-family homes located in the subdivision will be served by underground power, electric and telephone lines, the Town's contracted waste disposal contractor, and residential home sprinkler systems.

Finding: Laura Lane Subdivision will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

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

The subdivision lots will be served by individual drilled bedrock wells. The wells will be cased through the deep sand into the bedrock. Nitrate Plume, Soils, and Well Location Plan: Sheet C-4: identifies the acceptable well area on each lot within the subdivision.

The well for Lot 4 is located in the common open space of the subdivision behind lot 4 and next to the proposed hiking trail.

Finding: Laura Lane Subdivision provides for adequate water supply for present and future needs.

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

The lots will have on-site subsurface disposal systems designed by a Maine Licensed Site Evaluator. All private septic systems are required to meet the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

Nitrate Plume, Soils, and Well Location Plan: Sheet C-4: identifies the locations for septic systems as well as the nitrate plume flows. Each lot will have its septic system located as shown on the plan, unless the applicant can provide the Code Enforcement Officer with a report from a licensed hydro-geologist stating that the new location will not impact any drinking supply wells or negatively impact the abutting lots' ability to locate drinking supply wells as shown on Sheet C-4.

Finding: Laura Lane Subdivision provides for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

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

Storm water from a portion of the road will be served by infiltration trenches and a forested buffer within the subdivision's open space. Sewage disposal from the site will be treated in subsurface disposal systems designed by a Maine Licensed Site Evaluator.

Finding: Laura Lane Subdivision will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

- g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

All the residential house lots and the open space will be loamed and seeded to prevent soil erosion. The majority of the storm water from the subdivision will be directed to the forested buffer around the lot and into the road ditch for infiltration.

Finding: Laura Lane Subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

- h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

A storm water management plan, dated May, 2015, has been submitted which identifies that storm water will be managed by routing the flows to infiltration trenches located at the front of the lots and a forested buffer in the open space.

The project has received Stormwater Permit from the Maine Department of Environmental Protection, dated April 21, 2015, Permit # L-26602-NJ-A-N.

The applicant has also submitted an Erosion and Sedimentation Control Plan, dated September 25, 2014. The Erosion Control Notes and Details: Sheet C-6 identifies how erosion control measures will be implemented on the site.

Storm water from the site flows eventually into Nason Brook, which flows into the Presumpscot River and discharges to Casco Bay.

Finding: Laura Lane Subdivision will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

- i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

The residential subdivision is proposing to protect 10.05 acres of open space which will remain in its natural state. No scenic vistas, historic sites or irreplaceable natural or manmade assets have been identified on the site.

Finding: Laura Lane Subdivision will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

- j) Financial Capacity to meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.

The applicant has provided a letter dated September 25, 2014, from Peter H. Godsoe, Regional Vice President Commercial Lending, with Norway Savings Bank.

The applicant has provided an itemized schedule of values for Laura Lane Subdivision.

Finding: The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations.

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

The applicant will be required to pay the Recreational Facilities and Open Space Impact Fee prior to the issuance of building permits for the ten (10) lots within the subdivision.

Finding: Laura Lane Subdivision is responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
- a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
 - b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The applicant is proposing to create 10.05 acres of open space with a walking trail. The remaining open space will be utilized as a buffer both visually and for storm water purposes. The Laura Lane Subdivision homeowners' association shall be required to take care of the common open space, hiking trails, Laura Lane private way, and the storm water drainage infrastructure.

Finding: Laura Lane Subdivision is proposing to create open space and recreational land and facilities within the subdivision in accordance with the Planning Board requirements and the Laura Lane homeowners' association shall be required to provide for the perpetual care of commonly owned recreation land.

CHAPTER III - SUBDIVISION, SECTION IV –FINAL PLAN REVIEW

D. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

The applicant has provided a revised plan set and final subdivision application.

Finding: The applicant has submitted the required subdivision plan and accessory documentation showing that the required changes requested by the Planning Board at Preliminary Subdivision approval have been completed.

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval.

The Planning Board granted preliminary approval to Laura Lane Subdivision on February 9, 2015.

Finding: The plan is approved by the Planning Board within 12 months of Preliminary subdivision approval.

CHAPTER II, SECTION V, H., Standards for Private Ways

(This section is modified for brevity. See the current Land Use and Development Code for exact wording.)

- 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 lots served by the private way are required to meet the requirements of the clustered subdivision shown on the approved Laura Lane Subdivision plan and associated documentation. The applicant is seeking approval of a 1,203' paved private way built to the 7-10 lot paved private way standard. All lots located along the private way can only have single-family dwelling units due to the allowable density of the lot. The maximum number of lots/dwelling units allowed to be served by the private way is 10 lots and/or dwelling units.

Finding: Laura Lane private way is designed to the 7-10 lot paved private way standard and no more than two dwelling units can be located on a lot served by the private way to a total of no more than 10 dwelling units and/or 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 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 Laura Lane 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 private way is part of a subdivision so the applicant has provided a Declaration of Covenants and Restrictions for Laura Lane Subdivision and Bylaws of Laura Lane Homeowners' Association. The Laura Lane Subdivision homeowners' association documents identify that the homeowners' association is required to maintain the private way.

Finding: Declaration of Covenants and Restrictions for Laura Lane Subdivision and Bylaws of Laura Lane Homeowners' Association provide for access and shared maintenance for the lots served by Laura Lane.

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The paved apron will be constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

Finding: The private way right-of-way width for Laura Lane is 50' and a paved apron has already been designed that 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 applicant is proposing to construct a 1,203 foot private way to the Town's 7-10 lot paved private way standards.

The applicant is proposing a cul-de-sac road design.

Finding: *Laura Lane 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 shall serve to limit the use of such private way for occasional use by and for agricultural purposes.

The applicant is proposing a paved private way to serve 7-10 lots/dwelling units.

Finding: *Not applicable.*

- 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 lot where the private way is located has 17.10 acres with the lots being approved under the Town's Clustered Subdivision requirements. The lot area for the private way is not included in any of the clustered residential subdivision lot area.

Finding: *The land area of Laura Lane private way is not being 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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
3. That the houses shall be properly numbered with the numbers being visible from the street year around;
4. That all the buildings shall be sprinkled meeting all applicable sections of the Town's sprinkler ordinance;

5. That the building sprinkler plans shall be submitted to the Gorham Fire Dept. and the State Fire Marshal's Office for review and permitting with the plans being submitted to the Fire Dept. at least two weeks prior to the start of installation of the system;
6. That Sprinkler test papers must be submitted to the Gorham Fire Dept. prior to the Certificate of Occupancy being issued;
7. The street name shall be approved by the Police and Fire Chiefs;
8. That the underground electric lines shall be inspected by the Code Enforcement Office prior to backfill;
9. The streets shall be properly named and signed with Town approved Street Signs and street signs shall be in place as soon as the roads are constructed;
10. That the private way shall be properly maintained for access of emergency vehicles year round;
11. That the subsurface wastewater disposal systems for the lots will be located as shown on the approved plan unless the applicant can provide the Code Enforcement Officer with a report from a certified Hydro-geologist stating that the new location will not impact any drinking supply wells or negatively impact any abutting lots ability to locate drinking supply wells;
12. That the individual wells for lots will be cased through the deep sand into the bedrock and located within the acceptable well zone unless the applicant can provide the Code Enforcement Officer with a report from a certified Hydro-Geologist stating that the new location is suitable for drinking water supply;
13. That the applicant is responsible for recording the approved Laura Lane Homeowners' Association documents within 90 days of the date of approval of the subdivision by the Planning Board and a recorded copy of the Homeowners' Association documents shall be returned to the Planning Department prior to a preconstruction meeting being held;
14. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
15. That the Maine DEP required wooded stormwater buffers be permanently marked on the ground prior to the start of construction;
16. That the private way plan(s) shall be recorded in the Cumberland County Registry of Deeds within 30 days of signing by the Planning Board; if the plan is not recorded within this period, the approval of the Planning Board shall be void;
17. That the subdivision plan shall not be released for recording at the Cumberland County Registry of Deeds until the required performance guarantee has been posted meeting the approval of Town Staff; and the subdivision plan is required to be recorded within one year of original approval or the approval becomes null and void; and

18. That once the subdivision and private way plans have been recorded at the Cumberland County Registry of Deeds, a dated mylar copy of the recorded subdivision and private way plans shall be returned to the Town Planner prior to a pre-construction meeting being held.

ITEM 2 FORT LIBBY DRIVE PRIVATE WAY – MATTHEW LIBBY

**FINDINGS OF FACT
FOR
FORT LIBBY DRIVE – MATTHEW LIBBY**

July 20, 2015

Applicant & Property Owners: The applicant is Matthew Libby 342 Fort Hill Road, Gorham, Maine 04038. The lot owners are Ted Libby and Matthew Libby, 342 Fort Hill Road, Gorham, Maine 04038.

Property: The lots are identified as Tax Map 64, Lot 14 and Map 43, Lot 30 located off Fort Hill Road (State Route 114).

Consultant: Andrew Morrell, P.E., and Robert C. Libby, Jr., P.L.S., with BH2M

Project Description: The applicant is proposing to construct a private way designed to the 2-6-lot/dwelling unit private way standards to serve a family lot split and possible future family lot splits located on 36.84 acres. The private way is located off Fort Hill Road, State Route 114.

Site Description: Parcel Map 64 Lot 14 is 35.63 acres in size and has on it a single-family dwelling unit and a two car garage. The Little River divides the western third of the parcel from the remainder of the parcel. Parcel 43-30 does not have any principal building but does have a storage shed currently located on it. The terrain in the vicinity of the private way will slope from east to west toward the unnamed stream and Little River located on the parcel. The slopes to the north and south are relatively flat with a slight slope towards Douglas Brook.

Applicability: The Planning Board has the ability to approve the use of private ways to provide access to individual lots of land provided that the standards for private ways are met. The applicant is proposing to construct a 2-6 lot/dwelling unit gravel private way under those standards.

Zoning: Rural (R), Shoreland Over District, and Stream Protection Sub-district

Variances: None required.

Waivers: None requested.

Pursuant to the Application:

A Private Way Review was held on July 13, 2015.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

BH2M's plans (the plans) for a private way, prepared by Andrew Morrell, P.E., consist of the following:

Sheet 1 – Plan of Private Way – 06/18/15, 7/14/15 Sheet 2 - Details – 06/18/15, 07/14/15

Other documents submitted consist of the following:

Private Way Application – 06/09/15
Plans – 06/09/15
BH2M response to comments letter – 07/14/15
Letter from Ted Libby – 07/14/15
Proposed lot plan – 07/14/15
Mark Hampton Wetland Delineation – 06/03/15
Gorham Town Planner – 07/02/15; 7/15/15
Gorham Fire Department – 06/23/15
Gorham Assessor Comments – 06/12/15; 06/17/15; 06/24/15
Gorham Code Enforcement – 06/17/15
Gorham Public Works Director – No comments
Town Attorney – 06/30/15
Woodard & Curran Comments – 06/09/15; 06/19/15; 07/16/15

CHAPTER II, SECTION V, H., Standards for Private Ways

(This section is modified for brevity. See the current Land Use and Development Code for exact wording.)

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

The lot served by the private way is required to meet the requirements of the Rural zoning district. The lot served by the private way will be for a single-family dwelling. The maximum number of lots/dwelling units allowed to be served by the private way is 2-6 lots/ dwelling units.

Finding: *The approved private way is designed to the 2-6 lot/ dwelling unit private way standard and no more than six dwelling units can be located on the lots served by the private way.*

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The applicant has hired BH2M to prepare the private way plans which have been prepared by a registered land surveyor, Robert C. Libby, Jr., P.L.S. #2190, and sealed by a registered professional engineer, Andrew 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 Fort Libby Drive 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 proposal is for 2-6 lots/dwelling units and the applicant has provided a maintenance agreement prepared for the lots accessed by the private way. The private way maintenance agreement has been reviewed and approved by the Town Attorney and staff.

The private way maintenance agreement is required to be recorded within 30 days of approval by the Planning Board.

Finding: *The private way maintenance agreement identifies the rights and responsibility of each lot owner with respect to the maintenance, repair, and plowing of the private way as outlined in this section*

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The existing paved apron has been constructed to the following standards:

- b) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;

f) approach radius shall be specified by the Town Engineer.

Finding: *The right-of-way width for Fort Libby Drive is 50' and a paved apron has been designed to conform 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 applicant is proposing to construct the 600' private way to the 2-6 lot/ dwelling unit private way standard. The private way plan shows the required 2-6 lot/dwelling unit private way standard cross section. The private way will have the required turnaround located at station number 5+39.

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 applicant is proposing a 2-6 lot/dwelling unit private way to serve a single-family dwelling with possible additional family lots in the future.

Finding: *Fort Libby Drive private way will serve a maximum of 6 lots and/or dwelling units.*

- 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 combined total lot area of the two parcels is 1,604,750 sq.ft.. The right-of-way area is 32,446 sq.ft. leaving the remaining lot with 1,572,304 sq.ft.

The right-of-way across lot 43-30 reduces the lot area to 55,421 sq.ft. The applicant is proposing to transfer enough lot area from lot Map 64, Lot 14 to lot Map 43, Lot 30 for a duplex unit. The new lot 43-30 would have over 120,000 sq.ft. The remaining Lot 64-14 will have more than enough lot area to cover the minimum 60,000 sq.ft. lot area in the Rural District.

The ownership of the right-of-way for Fort Libby Drive will remain with Map 64, Lot 14.

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

- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

The private way is accessed from Fort Hill Road, State Route 114, which is designed to as a Maine Department of Transportation major/urban collector and is in a state to accommodate the traffic generated by the private way.

Finding: *That the public road serving the proposed private way is suitable to serve the proposed private way.*

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 served by 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 and meeting the requirements of Gorham's Land Use and Development Code;
- 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 approved private way maintenance agreement shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board and a recorded copy of the private way maintenance agreement shall be returned to the Planning Office prior to a pre-construction meeting being held;

- 11 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;
 - 12 That the applicant shall receive Port Water District approval prior to the Planning Board’s endorsement of the final plan;
 - 13 That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
 - 14 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.
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ITEM 3 DEERFIELD DRIVE PRIVATE WAY – GREGORY AND SUE MCCORMACK

**FINDINGS OF FACT
FOR
GREGORY AND SUE MCCORMACK – DEERFIELD DRIVE**

July 20, 2015

Applicant/ Property Owner: The applicants/owners are Gregory and Sue McCormack, 24 Strawberry Lane, Gorham, Maine 04038.

Property: The lots are identified as Tax Map 104 Lots 10.003 and 30, located off Maplewood Drive and Strawberry Lane.

Consultant: Andrew Morrell, P.E., and Robert C. Libby, Jr., P.L.S., with BH2M

Project Description: The applicants are proposing to construct a private way designed to the 2-6 lot/dwelling unit private way standard to serve a new proposed lot split off the existing lot 104-30 located on 2.00 acres. The private way will extend onto lot 104-10.003 where the turnaround will be located. The private way is located at the end of Maplewood Drive.

The applicant will grant the Town of Gorham a 20’ drainage easement around the extension of the 12” culvert located at the end of Maplewood Drive.

Site Description: Parcel Map 104 Lot 30 is 2 acres in size and has a single-family house and a two car attached garage. The house and garage are located on the western third of the lot with the eastern two-thirds of the site being woodland. The private way is located at the end of Maplewood Drive. Parcel Map 104 Lot 10.003 is 8.6 acres in size and has on it a single-family house and a two car attached

garage. The house and garage are located on the southwestern portion of the lot with the eastern portion of the site being woodland. The terrain in the vicinity of the private way slopes from west to east. Some wetlands are located to the east of the proposed private way.

Applicability: The Planning Board has the ability to approve the use of private ways to provide access to individual lots of land provided that the standards for private ways are met. The applicant is proposing to construct a private way designed to the 2-6 lot private way standard.

Zoning: Urban Residential (UR)

Variances: None required.

Waivers: None requested.

Pursuant to the Application:

A Private Way Review was held on July 13, 2015.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

BH2M's plans (the plans) for a private way, prepared by Andrew Morrell, P.E., consist of the following:

Sheet 1 – Plan of Private Way – 06/18/15; 07/14/16; 07/16/15 Sheet 2 - Details – 06/18/15; 07/14/15; 07/16/15
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Other documents submitted consist of the following:

- Private Way Application – 06/10/15; 06/18/15
- Plans – 06/10/15
- Declaration of Maintenance of Private Way – 06/10/18
- BH2M response to comments – 07/14/15; 07/16/15
- Map showing proposed revised boundary for lot 104-30 – 07/14/15
- Mark Hampton Wetland Delineation – 06/07/15
- Glissen Havu, Portland Water District – Ability to Serve – 06/11/15
- Gorham Town Planner – 06/30/15
- Gorham Fire Department – 06/23/15
- Gorham Assessor Comments – 06/15/15; 06/30/15
- Gorham Code Enforcement – 06/17/15
- Gorham Public Works Director – 07/09/15
- Woodard & Curran Comments – 06/18/15; 07/16/15

CHAPTER II, SECTION V, H., Standards for Private Ways

(This section is modified for brevity. See the current Land Use and Development Code for exact wording.)

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

The lot served by the private way and the existing house lot on M104 L30 are required to meet the requirements of the Urban Residential zoning district. The lot served by the private way will be for a single-family dwelling. The maximum number of lots/dwelling units allowed to be served by the private way is 2-6 lots/ dwelling units.

Finding: The approved private way is designed to the 2-6 lot/ dwelling unit private way standard and no more than six dwelling units can be located on the lots served by the private way.

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The applicant has hired BH2M to prepare the private way plans which have been prepared by a registered land surveyor, Robert C. Libby, Jr., P.L.S. #2190, and sealed by a registered professional engineer, Andrew 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 Deerfield Drive 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 proposal is for 2-6 lots/dwelling units and the applicant has provided a maintenance agreement prepared for the lots accessed by the private way. The private way maintenance agreement has been reviewed and approved by the Town Attorney and staff.

The private way maintenance agreement is required to be recorded within 30 days of approval by the Planning Board.

Finding: *The private way maintenance agreement identifies the rights and responsibility of each lot owner with respect to the maintenance, repair, and plowing of the private way as outlined in this section*

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The existing paved apron has been constructed to the following standards:

- c) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

Finding: *The right-of-way width for Deerfield Drive is 50' and a paved apron has been designed to conform 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 applicant is proposing to construct the 422' private way to the 2-6 lot/dwelling unit private way standard. The private way plan shows the required 2-6 lot/ dwelling unit lot private way standard cross section. The private way will have the required turnaround located at station number 3+49.

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 applicant is proposing a 2-6 lot/dwelling unit private way to serve a single-family dwelling with possible additional lots in the future.

Finding: *Deerfield Drive private way will serve a maximum of 6 lots and/or dwelling units.*

- 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 right-of-way area is 22,668 sq.ft. The location of the private way leaves lot 104, 30 with 20,287sq.ft. with the remaining area being merged with lot 104, 10.003 Both lot areas have enough to meet the lot sizes in the Urban Residential zoning district.

The ownership of the right-of-way for Deerfield Drive will remain with lot (Map104 Lot 10.03)

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

- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

The private way is accessed from Maplewood Drive, which is designated by the Town of Gorham as an urban access road and is in a state to accommodate the traffic generated by the private way.

Finding: *That the public road serving the proposed private way is suitable to serve the proposed private way.*

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 served by 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 and meeting the requirements of Gorham's Land Use and Development Code;
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 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;
11. That the approved private way maintenance agreement shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board and a recorded copy of the private way maintenance agreement shall be returned to the Planning Office prior to a pre-construction meeting being held;
12. That the applicant shall provide all necessary documents regarding the proposed Town's drainage easement for review and approval and that the approved signed drainage easement deed to the Town shall be provided to the Planning Department prior to the Planning Board's endorsement of the final plan;
13. That the applicant shall receive Portland Water District approval prior to the Planning Board's endorsement of the final plan;
14. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
15. That these conditions of approval must be added to the private way plan and the private way plan shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded mylar copy of the private way plan shall be returned to the Town Planner prior to the Pre-construction Meeting.