



Town of Gorham
June 1, 2015
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
SCOTT HERRICK
RACHEL SUNNELL

Member Absent

JAMES ANDERSON
GEORGE FOX

Staff Present:

THOMAS POIRIER, Town Planner
BARBARA C. 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 Mr. Anderson and Mr. Fox were absent.

APPROVAL OF THE MAY 4, MINUTES

Melinda Shain MOVED and Scott Herrick SECONDED a motion to approve the minutes of May 4, 2015 as written and distributed. Motion CARRIED, 4 ayes (James Anderson and George Fox absent). (7:10 p.m.)

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Herrick said there is no report this evening.
 - 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 the Town Council did not approve the proposed airstrip ordinance changes. In reply to Mr. Zelmanow, Mr. Poirier said that there is an old Code Enforcement determination which holds that airstrips are an accessory use to another permitted use, but the new Code Enforcement

Officer may interpret that use differently. The Council has also been working on the Narragansett Development District and home occupations, which will be coming to the Planning Board.

Mr. Poirier called the Board's attention to training to be done by the Maine Municipal Association for local planning boards, with the closest site for such training to be in South Portland on October 29, 2015. Anyone who is interested in attending should speak with Mr. Poirier after the meeting.

ITEM 1 CONSENT AGENDA - Final Subdivision Review – Stonefield IV Subdivision – Gilbert Homes request for approval of a 36-lot clustered subdivision off Ichabod Lane with a 2,900' roadway to connect to Stonefield II and III and a 400' dead end road to support 4 lots, located on Map 50, Lot 6, Rural, Shoreland Overlay, and Resource Protection Sub-District zoning districts.

Mr. Zelmanow explained the Consent Agenda process. Mr. Poirier confirmed that the proposed conditions of approval have been shared with the applicant, who has no issues with them. There being no one on the Board or from the public who wished to take the item off the Consent Agenda,

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to approve the item on the Consent Agenda. Motion CARRIED, 4 ayes (James Anderson and George Fox absent).
[7:20 p.m.]

ITEM 2 PUBLIC HEARING – Land Use and Development Code Amendment – Amendment to Chapter II, Section IV – Residential; Subsection C. Accessory Apartments; C, to allow Accessory Apartments to contain up to a maximum of 1,000 square feet.

Mr. Poirier advised the Board that the item was last before the full Board on April 6, 2015, and was reviewed by the Board's Ordinance Committee on April 27, 2015. Mr. Poirier said that currently under the Land Use Code, accessory apartments of 660 square feet are allowed and the Council's proposal is to increase that to 1,000 square feet. At the request of the Board's Ordinance Committee, staff checked with abutting municipalities to see what they allowed – Windham allows 600 square feet; Westbrook, 800 square feet; Scarborough has a scale of permitted sizes, depending on the size of the primary unit; Standish allows 1,000 square feet and up to 4 people and is the only municipality to allow 4. All others, including Gorham, allow only 2 people. Saco allows more than 400 square feet but less than 800 square feet, and Buxton allows 500 square feet.

Mr. Poirier said the Code Enforcement advised staff that performance standard 4 dealing with the septic system needs to be revised to comport with State of Maine subsurface plumbing rules and should be amended to be consistent with State law, which does not give accessory apartments an exemption from installing an upgraded septic system. Staff also recommends deleting performance standard 10 which requires that an HHE 200 form be recorded in the Registry of Deeds. In addition, Mr. Poirier said that accessory apartments are only exempt from two-family standards because of lot area and lot coverage. He said that the building and fire codes do not have an accessory apartment provision, so different standards are required to meet those codes, such as the appropriate fire rating between the two units. Private way standards do not allow, for example, 7 single family houses and 7

accessory apartments, because that would be more than the minimum dwelling units allowed on a private way.

Mr. Poirier recommended that the Board vote on the size of the accessory apartment to be permitted and take a second vote on the recommended standard changes.

Mr. Zelmanow noted that increasing the permitted size could mean an accessory apartment over a garage would be a duplex unit. Mr. Herrick said the committee questioned what benefit to the Town would it be to permit the increase; the committee had concerns about what could happen should the property be sold and be rented afterwards as a two-unit, circumventing multi-family requirements in the Code.

Ms. Shain said no good reason for increasing the allowed size to 1,000 square feet has been put forth and that much of an increase means duplex requirements should apply. She said she is not in favor of changing the allowed square footage but is supportive of the changes recommended to performance standards 4 and 10. Ms. Sunnell concurred and said the increase would be very confusing and complicated with existing ordinances. Mr. Zelmanow said the 660 square feet is more than enough to allow an accessory apartment over a garage.

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

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to recommend adoption by the Town Council of a zoning amendment as drafted by the Town Council to increase Accessory Apartments up to a maximum of 1,000 square feet in size. Motion FAILED OF PASSAGE, 0 ayes and 4 nays (James Anderson and George Fox absent).

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

Melinda Shain MOVED and Scott Herrick SECONDED a motion to recommend adoption by the Town Council as amended by the Planning Board to amend performance standard 4 and to delete performance standard 10. Motion CARRIED, 4 ayes (James Anderson and George Fox absent).

Mr. Zelmanow noted that staff will prepare a letter explaining the Board's votes.

ITEM 3 PUBLIC HEARING – Land Use and Development Code Amendment –
Amendment to Chapter I, Section VIII – Rural District, to allow a personal storage garage as a principal use.

Mr. Poirier said that this item was forwarded to the Board by the Town Council in January. The Board's Ordinance Committee reviewed the proposed amendment twice and changed the wording to "personal" storage garage because without some type of residence being located on a lot, it was felt that the original term of "residential" storage garage was not suitable. The Council did not provide any specific zoning district so staff has begun the review process with the Rural zoning district, drafting a permitted use in that district of a personal storage garage with less than 600 square feet of total floor

area. A definition for personal storage garage has also been crafted, limiting what can and cannot be stored inside, and allowing only items owned by the person who owns the lot to be stored in the garage. Unfortunately, it would be extremely difficult to enforce any of those provisions by the Code Enforcement Office. Mr. Poirier said that identifying a personal storage garage as a permitted use will likely require that a garage be considered as a principal building. However, under the Land Use Code if there are two principal buildings on a lot, there has to be double the road frontage and double the lot area, and they have to be able to be split so as not make either one nonconforming. Making an accessory use into a permitted use may cause a garage to be considered as a principal building, which could make single family homes with stand-alone garages nonconforming. Mr. Poirier noted that research has shown that no other community allows for personal storage garages as a permitted use, and all require that a residence or other primary use be located on the same lot as the garage.

Ms. Shain said that she sees no reason for or merit in approving this change and believes it would create enforcement issues and problems with nonconformity. Mr. Herrick said that he believes that the proposed change came about because someone owned a house on one lot and owned another lot across the street in a residential subdivision and wanted to build a garage across the street, but the lots could not be merged because of the street separating them. Mr. Herrick said he had concerns about someone purchasing a lot not near his residence and putting a garage on that lot and the issues which could arise from selling the residential lot and not the garage lot, forcing the Town to put private covenants on real estate. Mr. Zelmanow said he believes there are too many cons involved in this proposed change to recommend its approval.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to recommend adoption by the Town Council of a zoning amendment as drafted by the Planning Board to allow personal storage garages as a permitted use in the Rural zoning district. Motion FAILED OF PASSAGE, 0 ayes and 4 nays (James Anderson and George Fox absent).

Mr. Zelmanow noted that staff will prepare a letter explaining the Board's vote.

ITEM 4 PRE-APPLICATION DISCUSSION – Subdivision/Private Way Discussion – Shiers Meadows Subdivision Phase II – Paul Hollis, Sebago Real Estate Investment, LLC, request for approval to subdivide the remaining land of the Shiers Meadows Subdivision with a 7-lot clustered subdivision and improvements to Shiers Meadows Drive, located on Map 4, Lot 4.001, Rural zoning district.

Mr. Poirier advised that pre-application discussions are between the applicant and the Planning Board; none of this material has been circulated for review. Mr. Poirier said that the first phase of this development involved the three lots located to the front and the 2-6 lot private way. This phase involves the remaining land of Richard Shiers, toward the back of the private way.

Mr. Zelmanow reminded the public that it is not the Board's policy to schedule site walks on pre-application discussions because no formal applications have been submitted as yet. Mr. Zelmanow thanked the applicant for submitting both a conventional and a clustered plan.

Andrew Morrell, BH2M Engineers, appeared at the podium and introduced Paul Hollis of Sebago Real Estate Investments, LLC. Mr. Morrell said the applicant is looking to purchase approximately 17 acres with 4.77 acres remaining with the existing farmhouse on site. The applicant is asking for approval to build a residential single family subdivision on the parcel in phases, with phase 1 consisting of an extension of the current private way, which now is a 2-6 lot private way serving three lots. In the first phase the private way would be extended some 200 feet and to build 2 or 3 lots at the end of it. The second phase would be to upgrade the entire length of the private way to the Rural Access public standard and to complete the build out of the project with 4 to 5 additional lots.

Mr. Morrell told Mr. Zelmanow that at this time the applicant would like to proceed with a conventional subdivision plan because of the larger lots. Mr. Morrell said that the applicant is not proposing any open space with the conventional layout, and it is understood that net residential density calculations will be required in a future submission. Ms. Shain asked about common area maintenance. Mr. Morrell said that the applicant at this time is not proposing any open space. Mr. Morrell said there is a potential agreement with an abutter that may result in an additional lot along the existing Shiers Meadows Drive, but the exact number of lots will come with the net residential density calculations.

In reply to Mr. Zelmanow, Mr. Morrell said the lots will be served by private water and sewer. A series of test pits was done for the first phase and found that the soils are good.

Mr. Zelmanow asked what the curb-to-curb width of the road would be. Mr. Morrell replied that the current private way can handle 6 lots, so once the second phase been started with a 7th lot, the road would have to be upgraded to the Rural standard, which he believes is 22 feet wide with a two-foot shoulder on either side. Mr. Zelmanow asked if the roadway could be expanded to 24 feet wide. Mr. Morrell said they would look at it, but said he would not anticipate curbing, that the road would be 22 feet paved area and 2 to 4 foot gravel shoulder on either side. Ms. Shain asked about the proposed topography of the road. Mr. Morrell said the road location was chosen because it is the high spot on the lot so the grades of the proposed road will be quite minimal. Mr. Poirier confirmed that the Rural access standard requires a 20 foot wide road with 4 foot shoulders, or a total of 28 feet. Mr. Morrell said the problem comes with the curbing.

In response to Mr. Zelmanow, Mr. Morrell said there would be a 50-foot right-of-way to the adjoining parcel to the McLucas property, which has frontage on County Road. In reply to a query from Mr. Zelmanow, Mr. Poirier said that if a public road is being proposed, Public Works will recommend a clustered mailbox. Ms. Shain asked if there will street trees.

Ms. Sunnell disclosed that she has worked with the applicant in the past, and since there is no vote this evening, she believes that she can be unbiased on this project.

Melinda Shain MOVED and Scott Herrick SECONDED a motion to allow Ms. Sunnell to participate in the discussion of this item. Motion CARRIED, 3 ayes (Rachel Sunnell abstaining, James Anderson and George Fox absent).

PUBLIC COMMENT PERIOD OPENED: Kurt Albert is the owner of the abutting parcel at 103 County Road, not McLucas. He asked if the road would be built to his property. Mr. Morrell replied that the right-of-way would be extended to his property.

Paul Hollis, applicant, said he would be in favor of street trees in front of the houses.
PUBLIC COMMENT PERIOD ENDED.

Ms. Sunnell asked if the lot containing the existing home needs to be numbered as lot 8. Mr. Poirier said that lot would be considered the first break, so it is not part of the subdivision, but perhaps identified as "outsale lot A." Mr. Morrell replied that technically the applicant is purchasing everything except that lot. Mr. Morrell confirmed to Ms. Shain that the house lot gets its frontage off County Road, but the parcel that the applicant is purchasing gets its frontage off the private way.

Mr. Morrell noted that a waiver was granted for the private way of the ordinance requirement that it have a 90 degree angle off County Road. As the project moves forward for additional lots on the private way, a waiver will be required, which the Public Works Director has said he will support so long as the road remains a private way. Mr. Morrell said if the road is upgraded to a Rural access standard, the requirement is 70 degrees, which would be met by the present angle configuration.

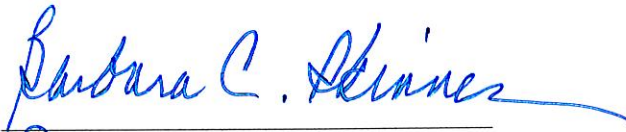
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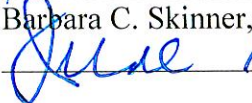
ANNOUNCEMENTS: The July Planning Board meeting will be held on Monday, July 13, 2015, if available, instead of July 6, 2015. If the Council Chambers are not available for the 13th, the meeting would then be held on July 20.

ADJOURNMENT

Melinda Shain MOVED and Rachel Sunnell SECONDED a motion to adjourn. Motion CARRIED, 4 ayes (James Anderson and George Fox absent). (8:05 p.m.)

Respectfully submitted,



Barbara C. Skinner, Clerk of the Board
, 2015