

PLANNING BOARD MEETING

August 3, 2020

Zoom Webinar Meeting

**MEMBERS PRESENT**

GEORGE FOX, CHAIRMAN  
JAMES ANDERSON  
SUSAN DURST  
VINCENT GRASSI  
THOMAS HUGHES

**MEMBERS ABSENT**

MOLLY BUTLER-BAILEY  
SCOTT FIRMIN, VICE CHAIRMAN

**STAFF PRESENT**

THOMAS POIRIER, DIRECTOR OF  
COMMUNITY DEVELOPMENT  
CAROLYN EYERMAN, TOWN PLANNER  
BARBARA SKINNER, CLERK OF THE BOARD

George Fox, Chairman, called the zoom Webinar meeting to order at 7:00 p.m. The Clerk of the Board called the roll, noting that Molly Butler-Bailey and Scott Firmin were absent.

**APPROVAL OF THE JULY 6, 2020 MEETING MINUTES**

**Susan Durst MOVED and Thomas Hughes SECONDED a motion to approve the minutes of the July 6, 2020 meeting as written and distributed. Motion CARRIED, 5 ayes (Molly Butler-Bailey and Scott Firmin absent).**

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**CHAIRMAN'S REPORT**

Mr. Fox said there is no Chairman's report this evening.

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**COMMITTEE REPORTS**

- A. Ordinance Review Committee - Mr. Grassi reported that this committee has not met since the Board's last meeting.
- B. Comprehensive Plan Implementation Review Committee – In Chairperson Ms. Butler-Bailey's absence, Mr. Anderson reported that this Committee has not met since the last Planning Board meeting.

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**ADMINISTRATIVE REVIEW REPORT**

Ms. Eyerman said that the Cressey Apartments sewer and water extension application has been approved and the Plowman gravel pit reclamation application has been scheduled for a public meeting later this month.

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**ITEM 1      Public Hearing – Gorham Savings Bank – Contract Zone Amendment** – a request for approval to amend the Contract Zone for Gorham Savings Bank to construct a ground

mounted solar array on the undeveloped lot adjacent to its Operation Center at 10 Wentworth Drive and to relax the buffering and setback requirements to allow for the project size. Zoned CZ, UR, Map 46, Lot 9 and 9.001.

Ms. Eyerman advised the Board the Contract Zone amendment request was discussed at its June 1, 2020 meeting. She said the Town Attorney has reviewed and made changes to the proposed amendment language; those changes are in the revised draft before the Board this evening.

Nate Niles, Revision Energy, appeared on behalf of the applicant and noted that the contract zone amendment is designed to accomplish three things: 1) to allow the use of the solar array; 2) to relax the setback requirements; and 3) to relax the buffering requirements. Mr. Niles said he is joined this evening by Steve deCastro, president of Gorham Savings Bank, Dan Hunter, COO, Alden Joy, VP of Facilities, and the Bank's attorney, Phil Saucier.

Mr. Fox asked Ms. Eyerman if there is anything from the Board's previous discussion of the item that has not been incorporated into the current draft of the amendment. Ms. Eyerman confirmed that what is before has captured everything that the Board had discussed, in particular its interest in having the Bank provide public access to the Tannery Brook trail system. Mr. Fox noted that the applicant will again come back before the Board for site plan review.

PUBLIC COMMENT PERIOD OPENED:       None offered  
PUBLIC COMMENT ENDED.

**James Anderson MOVED and Vincent Grassi SECONDED a motion to recommend adoption by the Town Council of Gorham Savings Bank's request for Contract Zone Amendment. Motion CARRIED 5 ayes (Molly Butler-Bailey and Scott Firmin absent).**

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**ITEM 2       Private Way Review – Robin and Linda Hult – a request for approval for a gravel extension to Homestead Lane, zoned R, Map 72, Lot 51.**

Ms. Eyerman told the Board that this is an existing private way, and the applicants would like to extend it 200 feet to provide road frontage for an additional lot for their son.

Chad Havu spoke on behalf of the applicants. He replied to a question from Mr. Fox that the extension would be built to the 2-6 lot gravel private way standard. Mr. Anderson confirmed that no modifications would be needed to the existing portion of the private way. In reply to a comment from Mr. Hughes, Mr. Havu said that the existing maintenance agreement has language indicating that if an additional lot is added, that lot owner would pick up his fair share of maintaining the private way. Ms. Eyerman said the Town Attorney could review a revised maintenance agreement provided by the applicant.

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

It was agreed that any of the minor changes needed could be handled by the applicant working with staff. Ms. Eyerman said relevant Conditions of Approval 4, 5, and 6 are designed to deal with the revisions and comments from the Town's review engineer. Mr. Havu said the applicant is in agreement with the Conditions. The Board concurred that no site walk is warranted for the application.

**James Anderson MOVED and Thomas Hughes SECONDED a motion to grant Robin and Linda Hult's request for approval of Homestead Lane, a 200 foot private way extension**

**designed to the Town's 2-6 lot/dwelling unit private way standard, located on Map 72, Lot 51 in the Rural zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 5 ayes (Molly Butler-Bailey and Scott Firmin absent).**

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**ITEM 3      Pre-Application - Tom Dore, Dore Drive Subdivision** – a request for approval for a 4-lot subdivision off the newly approved Dore Drive, zoned R-MH, Map 10, Lot 10.

Ms. Eyerman told the Board that this applicant was before the Board earlier this year for approval of a private way, Dore Drive. This application is a request for approval of a 4-lot subdivision on that private way. Ms. Eyerman said the applicant states that the lots are for family, but if that is the case, subdivision approval may not be required and this should be clarified by the applicant. She said that possible discussion items for the Board include the Comprehensive Plan vision for the area, the property's zoning, and subdivision requirements. She also noted that the applicant has called out six discussion items with the Board, dealing with sidewalks, public water and sewer, net residential density, landscaping, stormwater and nitrate study.

Andrew Morrell, BH2M, spoke on behalf of the applicant and noted that the applicant Tom Dore is also present. Mr. Morrell said that the applicant originally bought one lot where he was going to build his resident and another lot to build a home for his daughter, cutting 4 lots off the private way. Once the private way was approved, Mr. Dore's son decided he would rather move to the parcel now rather than wait 5 years for a family subdivision. Mr. Morrell said the applicant has chosen to come before the Board in an information gathering process to determine what steps would be required to get subdivision approval on the parcel or whether to wait the 5 years. Mr. Morrell said his understanding from the applicant's attorney is that subdivision approval is required because of how these lots were originally purchased.

Mr. Morrell referred to the subdivision requirement items on which they would like Board input. Concerning the subdivision requirement for sidewalks, he said that there are no sidewalks on Longfellow Road or on the approved Dore Drive. Regarding the provision of public water and sewer, Mr. Morrell spoke about there being a water and sewer main on Longfellow Road just over the Westbrook line. He asked if net residential density calculations are required, would the original house lot on Longfellow need to be included in those calculations. He asked if the Board would have any landscaping specifics or stormwater issues, and if the Board would consider waivers on the subdivision requirements for high intensity soils and nitrate studies.

Mr. Dore told the Board that his son would like to move back from North Carolina as he is now out of the army and would like to move back home before the 5-year period family subdivision exemption is up.

**PUBLIC COMMENT PERIOD OPENED:** Mr. Fox read a list of questions from the Tuck family: 1) does Mr. Dore have to wait the 5 years; 2) are there any setbacks from the adjacent property or will the property be directly adjacent to a drainage ditch; 3) was approval granted for the subdivision road and is the construction being overseen; 4) concern about stormwater runoff in the current state of the private way construction in light of possible heavy rain; and 5) why does there need to be 4 to 6 lots for 2 houses.

Mr. Fox answered Mr. Tuck's questions as follows:

Answer to #1: The 5 year requirement is not a limitation on a subdivision application, it is a limitation on a family subdivision approach.

Answer to #2: There will be setback requirements for construction within the lots, the lots can be built to the edge of the property.

Answer to #3: The private way was approved by the Planning Board and its construction is being overseen by the Town's engineer.

Answer to #4: Drainage and runoff questions during private way construction are deferred to Mr. Morrell.

Answer to #5: Mr. Tuck qualified this question by saying that if it is for his son, they can understand that, but he thought it might be going from two lots to possibly six lots all of a sudden. Mr. Fox confirmed that the applicant's proposal is for 4 lots.

Mr. Morrell said that when the private way was approved, the intent was to have 4 family lots along the private way. The current application is not 4 additional lots on top of what was previously approved, but it is to get the 4 lots approved now instead of waiting the 5 years for a family subdivision. In reply to Mr. Tuck's concern about erosion control in the road construction, Mr. Morrell said that the runoff from the private way is all collected in a vegetated ditch on either side of the road, exclusively directed to the south of the private way, flowing away from Longfellow Road to a level spreader at the end of Dore Drive, and distributed in sheet flow to a stream existing on lot 4. A silt fence has been erected around the entire perimeter of the earth disturbed in the private way construction and all of the erosion control techniques approved by the Planning Board as part of the private way approval have all been implemented. If the applicant goes forward with subdivision approval, Mr. Morrell said he believes the Board may require additional stormwater buffering on some of the lots. Mr. Anderson confirmed with Mr. Morrell that there are standards required by the DEP and the Town for erosion control.

PUBLIC COMMENT PERIOD ENDED.

Mr. Hughes asked if the 5 year limitation has ever been waived before. Ms. Eyerman said that the family subdivision rules are not applicable in this instance and further advised that the Board does not have the ability to waive part of the subdivision law. Mr. Anderson asked if the 4<sup>th</sup> lot could be sold to anyone outside the family. Mr. Morrell said typically a family transfer of a lot is exempt from the State of Maine subdivision standards. Mr. Poirier said that Mr. Dore has to own the parcel in its entirety for 5 years to get the exemption.

The Board then considered the discussion items listed by the Town Planner. Mr. Fox noted that the nitrate study requirement will probably be dependent on whether there will be private wells or public water. As the closest water line is about 500 feet from this parcel, it was suggested that some cost estimates will probably be required to demonstrate if there is a financial hardship in connecting to public water and the difference between connecting to public water or having private wells. This information would be considered by the Board in determining whether or not to grant a waiver of the subdivision requirement.

The Board agreed that it would not make financial sense to run a sewer line for four lots to the closest line in Hutcherson Drive, some 4000 feet away, so private septic would be the way to go.

There being no sidewalks on the Gorham portion of Longfellow Road to which to connect, Mr. Fox confirmed with Ms. Eyerman that the Board can waive the subdivision sidewalk requirement. Mr. Fox suggested that Mr. Morrell provide a cost estimate to provide sidewalks to the closest existing sidewalks on Longfellow in order to justify granting such a waiver.

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Mr. Morrell said net residential density calculation is a standard process for the subdivision, and their only question is whether the existing house on Longfellow needs to be included as part of the subdivision, and if so, does it need to be included in the net residential calculations. Mr. Poirier said staff will confer with the Town Attorney about this, but his recollection is the lot breaks are considered as part of the subdivision and are shown on the plans as being outparcels of the subdivision, but he doesn't believe they would get counted in the net residential density calculations. However, Mr. Poirier said he and Ms. Eyerman will confirm this with the Town Attorney and get back to Mr. Morrell.

The next item to be discussed was the landscaping. Mr. Fox said that because these will be family lots, the Board's interest will probably focus on external rather than internal buffers. Mr. Morrell said the parcel is fairly open up to the back of the parcel, mostly an open field as it currently exists. Some amount of buffering on the Robinson family side of the parcel was suggested and perhaps a baseline of one street tree per lot in front of each house. Mr. Fox suggested offering something to break up the view of the empty field.

Next was a discussion of subdivision stormwater requirements, with Mr. Morrell noting that the cumulative amount of wetland disturbance will be under the DEP threshold of 4,300 square feet total, but an Army Corps of Engineers permit will be needed. He said he would assume that the Board would look for both a pre and a post development stormwater analysis to make sure that the development does not exceed stormwater flow at any of the abutting residences or property lines. Mr. Morrell discussed the stormwater flow direction of ultimately to the south of lot 4. Mr. Morrell said the soils are medium intensity, and if they come forward for subdivision approval, they will do 2 test pits per lot.

Mr. Morrell confirmed that they have the information necessary for the applicant to decide if he wants to proceed.

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**ITEM 4      Discussion – Standards for Private Ways** – a proposed amendment to add new private way standards that would allow up to 25 lots or dwelling units.

Mr. Poirier said this is the first time the propose amendment has come before the Board. It originated at the Town Council because of the Council's concerns about more dead end roads coming forward for approval and the costs to maintain those dead end roads. The proposed amendments deal with both public and private way street design standards. The proposed public design standards involve, among other things, a requirement of at least 2 points of connection to other streets. In addition, the proposed amendment language for private way street design standards is to add a 10 to 25 lot/dwelling unit private way standard. The new private way standard is to give developments an alternative if they cannot meet the new requirement for public streets.

In reply to Mr. Fox, Mr. Poirier referred the Board's attention to the information provided by consultant Milone & MacBroom regarding the new private way design, amended private way table, and rural and urban private way design schematics. Mr. Poirier said that staff recommends that the Board review the proposed private way standard against all the private way standards to ensure that all the private way standards are edited to be consistent.

After discussion, because this item is an ordinance review amendment, the Board agreed that it should be forwarded to the Board's Ordinance Committee for review and recommendations back to the full Board. Mr. Grassi confirmed that after review by the Ordinance Committee, the next step would be for that Committee to make recommendations to the Board at a full Board workshop discussion on the item. The members of the Ordinance Committee are Mr. Grassi, chairman, Susan Durst and Thomas Hughes.

**James Anderson MOVED and Vincent Grassi SECONDED a motion to send the item to the Board's Ordinance Committee for review and recommendations. Motion CARRIED, 5 ayes (Molly Buter-Bailey and Scott Firmin absent).**

**ITEM 5      Discussion – Varied Density in the Village District and Urban Commercial District –**  
proposed amendments to allow for varied density for mixed-use developments.

Mr. Poirier advised the Board that these proposed amendments are from the Town Council and are intended to review the density for the Town's village areas and to bring the ordinance into compliance to meet the provisions of a vibrant mixed-use village as identified in the Comprehensive Plan. In addition to density requirements, the proposed amendments also identify performance standards for mixed-use developments.

Because these proposed amendments involve aspects of the Comprehensive Plan, the Board concurred that the item should be forwarded to the Board's Comprehensive Implementation Committee for their review and recommendations. Members of that Committee are Molly Butler-Bailey, chairperson, James Anderson and Scott Firmin.

**James Anderson MOVED and Susan Durst SECONDED a motion to send the item to the Board's Comprehensive Plan Implementation Committee for review and recommendation. Motion CARRIED, 5 ayes (Molly Butler-Bailey and Scott Firmin absent).**

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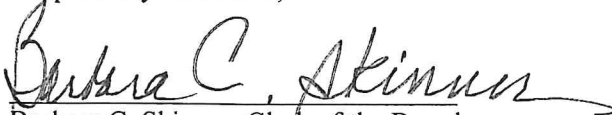
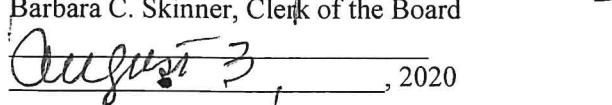
**OTHER BUSINESS**      Community Development staff and the Planning Board discussed the benefit of securing additional information earlier in the review process to streamline site plan and subdivision review.

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#### **ADJOURNMENT**

**James Anderson MOVED and Vincent Grassi SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Molly Butler-Bailey and Scott Firmin absent). [8:40 p.m.]**

Respectfully submitted,

  
Barbara C. Skinner, Clerk of the Board  




**ITEM 2            ROBIN AND LINDA HULIT – EXTENSION OF HOMESTEAD LANE PRIVATE WAY**

**CHAPTER 2, SECTION 2-5, 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.

Any proposed lots served by the private way are required to meet the requirements of the Rural zoning district. The maximum number of lots/dwelling units allowed to be served by the private way is up to 6 lots or dwelling units.

The approved name of the private way is “Homestead Lane.” The name meets the required E911 standards.

*Finding: The private way is designed to the 2-6 lots/dwelling units private way standard and no more than six dwelling units can be 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 private way plan was designed by Chad Havu, P.E.

The Plan title block reads "Plan for a Gravel Private Way – Homestead Lane."

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 Plans shows information sufficient to establish the exact location on the ground, direction, width and length of the private way right-of-way.

The street plan and profile, and street cross sections are in accordance with Chapter 2, Section 2-5., 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 shall be sealed by a registered land surveyor and 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 maintenance agreement has been submitted and shall meet the requirements of this section.

Finding: *The private way maintenance agreement shall identify 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 proposed private way will be built 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 right-of-way width and a paved apron have 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 2 – 6 lot private way to meet the private way standard. The private way plan shows the required 2-6 lot/dwelling unit private way standard cross section.

Finding: *The private way meets all the criteria and design requirements presented in Table 1 and 2 and the typical cross sections depicted in Figures 9 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 proposed private way may serve up to six (6) lots.

Finding: *The private way is proposing to serve an additional residential dwelling unit for a total of four (4) residential 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).

Any future lots will need to retain enough area to meet the minimum lot size requirements of the Rural Zoning District.



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 proposed private way will be off Sebago Lake Road which is suitable to serve the proposed private way.

Finding: *The proposed private way will be off of Sebago Lake Road which 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 the revision details from Woodard & Curran shall be completed prior to Planning Board signature;
5. That the following shall be added/completed to the plan prior to Planning Board signature:
  - a. The property markers at the intersections need to be 6" x 6" monuments.
6. That the revisions to the maintenance agreement based on comments from the Town Attorney shall be completed prior to Planning Board signature;
7. That at least one week prior to the date of the pre-construction meeting, an electronic copy and four complete paper copies 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;
8. 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;
9. 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;
10. 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;

11. That the approved amended private way maintenance agreement shall be recorded in the Cumberland County Registry of Deeds prior to a certificate of occupancy being given to any proposed new lot with a recorded copy of the private way maintenance agreement to be returned to the Planning Office;
12. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
13. 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 copy of the private way plan shall be returned to the Town Planner prior to the pre-construction meeting.