

**PLANNING BOARD MEETING MINUTES
JANUARY 3, 2022**

MEMBERS PRESENT

**MOLLY BUTLER-BAILEY, CHAIRWOMAN
SCOTT FIRMIN, VICE CHAIRMAN
JAMES ANDERSON
SUSAN DURST
GEORGE FOX
VINCENT GRASSI
THOMAS HUGHES**

STAFF PRESENT

**THOMAS POIRIER, DIRECTOR
OF COMMUNITY
DEVELOPMENT
CAROL EYERMAN, TOWN
PLANNER**

Chairwoman Molly Butler-Bailey called the meeting to order at 7:00 p.m. The roll was called with all members present.

APPROVAL OF THE DECEMBER 6, 2021 MEETING MINUTES

George Fox MOVED and Thomas Hughes SECONDED a motion to approve the December 6, 2021 meeting minutes as written and distributed. Motion CARRIED, 6 ayes (Scott Firmin abstaining as not having been present at the meeting).

COMMITTEE REPORTS

- A. Ordinance Review Committee:** Chairman Grassi reported that this committee met on December 20, 2021, to do an initial review of amendments to the performance guarantee and site review processes, with another workshop to be scheduled.
 - B. Comprehensive Plan Implementation Committee:** Chairman Anderson reported that this Committee also met on December 20, 2021, to determine a phrase in the language involving the Village Expansion District.
-

ADMINISTRATIVE REVIEW REPORT:

Ms. Eyerman reported that presently under review is the addition for the Sebago Brew Pub to be considered by the Administrative Review committee within the next week.

ITEM 1 Public Hearing - Land Use and Development Code Amendment - Phasing of Subdivisions - a proposed amendment to the Land Use and Development Code to require phased build outs of subdivisions.

Mr. Poirier told the Board this is a continuation of a public hearing from last month. Based on

comments from the public, the Board wanted to build in flexibility to allow a second phase to begin construction while the first phase was going through the building of residential units. Discussion involved what percentage of the first phase would be allowed; staff did research and had discussions with the Town's attorney that basically would allow two phases of a subdivision to undergo construction at one time, but only allow building and occupancy permits to be ongoing in one phase at a time. Mr. Poirier said that there are two versions before the Board this evening, one having the struck-through language and the other being a "clean" version.

Mr. Grassi said that there is nothing further to add to the proposed language.

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

Discussion among the Board members resulted in the addition of an "s" to the phrase "... the applicant provides..."

George Fox MOVED and Susan Durst SECONDED a motion to recommend adoption by the Town Council of the proposed amendment to the Land Use and Development Code of require phased build outs of subdivisions. Motion CARRIED, 7 ayes.

ITEM 2 Public Hearing - Land Use and Development Code Amendment - Agritourism - a proposed amendment to the Land Use and Development Code to allow for agricultural event centers and agricultural tourism.

Mr. Poirier explained this item has been forwarded from the Town Council to provide flexibility for farms to do agritourism to help supplement income from farming. The item was before the Board at the September meeting and was forwarded to the Board's Ordinance Committee which held workshops to discuss the item, receiving comments from interested parties. The Committee made some proposed changes to the language before the Board this evening, including Performance Standard 12. C., Setup and Take Down, that "Setup or take down shall not occur between the hours of 11:00 p.m. and 7:00 a.m." The Committee also proposed two new Performance Standards regarding vehicular access and prohibiting agritourism activity in any required side, rear or front setback.

Mr. Grassi said there are no additions to the proposed language.

PUBLIC COMMENT PERIOD OPENED: Charlie Pearson, 43 Mighty Street, said he and his wife are opposed to the current proposed amendment as it is too broadly written, with no limits on the number of events, no acreage requirements, no farm income requirements, and very broad definitions such as that for "farm." He also took issue with the word "incidental," as in Performance Standard #2, "Agritourism activity must be incidental to and directly supportive of the agricultural use of the property." Mr. Pearson commented on the items listed in the definition of agritourism that he believes have nothing to do with farming, such as weddings, corporate events/retreats and banquets. He also commented about the need for a limitation on the number of attendees at any event in light of parking issues.

Jennifer Grant, 147 Mighty Street, told the Board this amendment is very important for Gorham farmers. She said she understands Mr. Pearson's concerns with the number of events, but believes that 5 is too low. She said they have been clearing trails through the woods on their property in the hope that in the future either cross-country skiing or snowshoeing could be opened to the public to provide more income, and a limitation of 5 times would not be practical. She said that while theirs is a working farm, income production in the winter is limited, so they are looking for activities that go into the fall and the winter.

Christyn Walker, 236 Sebago Lake Road, said she believes that the restrictions suggested by Mr. Pearson are far too restrictive. She said economic viability is at the forefront of her mind as the owner of a farm, and unfortunately agriculture does not bring in the amount of income by itself, and there needs to be alternatives for the farmer to be able to make ends meet. She is not talking about 250 people at an event every weekend, but rather educational classes of 20 people, recreational or foraging classes of 20 to 25 people. She said that 5 events are far too few.

Linda Pearson, 43 Mighty Street, suggested employing current use values that subsidize the taxes for farmers, looks at their income and land, based on the value to their ratio of animals or trees, and is a contract with the state.

Dustin Spiller, 86 Spiller Road, said he is currently helping to manage the startup of their family farm on Spiller Road. He said this proposed amendment is very helpful to what they are planning for their family farm, but putting extra restrictions on that would make it much more difficult to accomplish.

Erica Gottshalk, 236 Sebago Lake Road, new owner of Orchard Ridge Farm with her sister, agrees with her sister in their wish to keep the farm open to the public with different classes, and other events such as cider pressing. They are concerned about limiting the number of people who can come in and enjoy the farm to just 5 events and believes that it is easier to add restrictions if necessary, rather than take them away.

PUBLIC COMMENT PERIOD ENDED

In reply to Ms. Butler-Bailey's questions about the definitions for Agritourism and Farming, Mr. Poirier replied that in drafting the language, the Town Council wanted the activities to be supportive of the agricultural activity ongoing at the site and not become the main use instead of incidental. The proposed zoning before this one, for agricultural event centers, was deemed to be too restrictive, too many standards, too many different criteria, too much review and too complicated to be administered. He said performance standards were added to protect abutting properties, and that there are other standards in the Code regarding noise that will come into effect with the uses.

Mr. Fox asked if any research was done for towns around Gorham regarding what their standards are for agritourism. Mr. Poirier replied that he does not know what standards other municipalities use to handle their incidental agritourism.

Mr. Anderson said that he sees two very distinct items in the proposed language and believes a great deal of the proposed language is geared to larger events that can cause concern with 250

showing up. However, he believes another issue is that brought up by Jen Grant, that if she wants to allow the public to use cross country skiing trails, is she limited to only 5 events. Mr. Poirier said there is no number currently in the proposed language, that the 5 event limitation was Ms. Pearson's recommendation.

Ms. Durst asked if an event needs to be related to what currently is done for farming. Mr. Poirier replied that it needs to be supportive of the farm use. Ms. Durst said she did not believe a wedding would be supportive, Ms. Butler-Bailey agreed. Ms. Butler-Bailey quoted from the proposed language that "Agritourism activity must be incidental to and directly supportive of the agricultural use of the property." Ms. Durst commented on some farms having year-round farm standards; Mr. Poirier replied that a farm stand is incidental to the farm use.

Ms. Butler-Bailey said she is concerned that the number of items in the agritourism definition would perhaps be limited by us saying that they must be directly supportive of the agricultural use, and that weddings and festivals would not be directly supportive of the agricultural use of the property, except financially. And if financial is directly supportive of the agricultural use of the property, then any use at all would be directly supportive. Mr. Fox said that is where the definition of agritourism comes into play because it lists those items which are directly supportive, but as opposed to the previous version of the ordinance, this one has looser standards which allow a farm to have more business opportunities. Mr. Hughes agreed with Mr. Fox.

Mr. Firmin asked how someone who has a complaint or concern gets that addressed. In addition, Mr. Firmin suggested that the definition of agritourism include everything up to "weddings, corporate events/retreats and banquets" and add language that "Additionally, weddings, corporate events/retreats and banquets could take place with the following (permit) (limitation in number)" This way the other items included such as Christmas tree farm, Maine Maple events and horseback riding are more in line with the overall definition of agritourism.

Mr. Poirier suggested that the Board can make some changes to the proposed language, or forward it to the Council with a recommendation that certain items be re-considered. Ms. Butler-Bailey said she would prefer that the Board's Ordinance Committee review the proposed language again before it is forwarded to the Town Council. Mr. Anderson concurred that the language should be reviewed to separate out the smaller events from the larger ones, which is more appropriate for the Ordinance Committee. Ms. Butler-Bailey suggested that there might be a better word than "incidental." Ms. Durst concurred that it should go back to the Committee.

Mr. Poirier said it would be helpful for the Committee if the Board can decide on an appropriate number of events. Ms. Butler-Bailey said if the uses are separated out, excluding weddings, corporate events/retreats and banquets, she would allow unlimited events, but would limit weddings, corporate events/retreats and banquets, to 250 people and limit the number of events to 8 to 10. Mr. Fox said that for the large events which could pose a problem to abutters, he would like to see the number of people involved, such as in a "small" wedding, with over 100 people for a "large" wedding and under 100 a "small" wedding. Mr. Fox recommended one a month. Mr. Firmin said he would rather rely on an adequate process of permitting and review, rather than a restriction on the number of events. Mr. Anderson said he agrees with the number of 100 and if the permitting process is stringent enough, such items as parking can be dealt with.

Mr. Poirier said that permitting requirements would have to be added by the Board but the intent of this ordinance was to get away from imposing too many restrictions.

Mr. Grassi said he agrees with a review of the larger items, and to see if the Council likes the number of 250 people. Ms. Durst said she agrees with Mr. Firmin that the larger events should require permits and over 100 people would be her limit.

James Anderson MOVED and Susan Durst SECONDED a motion to refer the item to the Board's Ordinance Committee for review and recommendations. Motion CARRIED, 7 ayes.

ITEM 3 Public Hearing - Land Use and Development Code Amendment - Village Expansion - a proposed amendment to the Land Use and Development Code regarding the Village Expansion District.

Mr. Poirier explained to the Board that its Comprehensive Plan Implementation Committee reviewed the proposed amendment, where discussion focused on the two points of connection waiver provision and the use of the word "and," requiring that both criteria be met, as opposed to the word "or," meaning that only one of the criteria is required. The Committee is recommending use of the word "or," that only one of the criteria needs to be met. In addition to the ordinance language, the zoning map will also be amended to include the new urban residential expansion district, part of this phase by the Little Falls area.

Mr. Anderson noted that the Committee felt that use of the word "or" gives the Board more flexibility in reviewing an applicant's request for a waiver of the two points of connection. In reply to a question from Ms. Butler-Bailey, Mr. Anderson said because the Board can look at an applicant's request in either way, "or" seemed to be the best fit. Mr. Fox said this language gives the Board the authority to waive the requirement, it doesn't require that the Board waives the requirements. Mr. Fox said that if there is no physical way to provide the second point of access, the Board could waive the requirement, or if there were a viable engineered solution but the cost of it was too high, the Board could waive the second point based on cost.

PUBLIC COMMENT PERIOD OPENED None offered.
PUBLIC COMMENT PERIOD ENDED

George Fox MOVED and James Anderson SECONDED a motion to recommend adoption by the Town Council of the proposed amendment to the Land Use and Development Code regarding the Village Expansion District with the proposed draft zoning map. Motion CARRIED, 7 ayes.

ITEM 4 Public Hearing - Site Plan Amendment - Donna Foster - Maide for You - a request for approval to relocate the existing driveway, expand the parking and convert the garage to a tanning salon at 222 Narragansett Street, zoned ND, Map 39, Lot 9.

Mr. Anderson advised the Board that he works for Great Falls Construction who represents Donna Foster and asked that he be recused from participation in the discussion on the item.

George Fox MOVED and Thomas Hughes SECONDED a motion to allow Mr. Anderson to recuse himself. Motion CARRIED, 6 ayes (James Anderson abstaining).

Ms. Eyerman told the Board that this item was last before it at its December meeting for approval to relocate the existing driveway, expand the parking and convert the garage to a tanning salon. Items of note at this time include parking lot landscaping at the rear of the property, landscape buffer to the front, which Public Works has asked that it be on this property and not in the right of way, which the applicant has agreed to do. Staff believes that remaining staff and review engineer comments are minor enough that they can be conditions of approval.

Andrew Morrell, BH2M, appeared on behalf of the applicant, and discussed the changes that have been made since the December meeting. The dumpster enclosure has been removed as the dumpster is protected by the two existing buildings; they are working with Public Works to get the front landscaping out of the right of the way; Water District capacity information has been provided; financial capacity has been provided; and some turning schematics have been provided to prove that emergency vehicles can turn around in both the front of the site and the rear.

PUBLIC COMMENT PERIOD OPENED: None offered
PUBLIC COMMENT PERIOD ENDED

Ms. Butler-Bailey asked Mr. Morrell about the silt fence; Mr. Morrell said that the silt fence has been extended to the front of the site, as requested by the review engineer. Mr. Fox agreed with Ms. Butler-Bailey and feels comfortable with adding a condition of approval to address any remaining staff and review engineer comments.

Mr. Morrell told the Board that a formal waiver request has been submitted for a reduction in the required buffer size.

George Fox MOVED and Vincent Grassi SECONDED a motion to grant a waiver from Chapter 1, Section D. 2(b) for a 23-foot buffer rather than the required 40 buffer. Motion CARRIED, 6 ayes (James Anderson recused).

Ms. Eyerman asked the Board to consider an additional Condition of Approval that any staff comments and peer review comments be addressed prior to the Board's signing of the final plan. Mr. Morrell agreed to the additional Condition.

Vincent Grassi MOVED and George Fox SECONDED a motion to grant Donna Foster's Maide for You request for site plan amendment approval to relocate the existing driveway, expand the parking and convert the garage to a tanning salon at 222 Narragansett Street on Map 39, Lot 9, in the Narragansett Mixed Use Development zoning district with Findings of Fact and Conditions of Approval as written by the Town Planner, and modified this evening by the Planning Board. Motion CARRIED, 6 ayes (James Anderson recused).

Break to 8:32

Mr. Anderson returned to the podium.

ITEM 5 Public Hearing - Site Plan - Gorham Bike and Ski, Inc. - Retail and Cafe - a request for approval for a 7,150 square foot two story building with parking lot, patio and dumpster, two-story mixed-use building with one residential dwelling unit, a retail store and restaurant, and an accessory building including a garage and residential dwelling unit. Zoned ND, Map 39, Lot 2-2.

Ms. Eyerman told the Board that this is both a subdivision and site plan for the Board's review. Items of note include screening for one of the ventilation units on the roof; and some additional landscaping conversation needs to take place, which could be handled by a condition of approval; with a few remaining peer review comments to be addressed as well.

Chris Taylor, Sebago Technics, appeared on behalf of the applicant, and told the Board that one of the major changes since the application was last before the Board in December is that the apartment building above the primary building has since been removed, but there is still an apartment building above the garage and therefore meets the mixed use requirement in this zone. Screening around the mechanical equipment has been added, and other comments from the review engineer about erosion control have been answered.

In reply to Ms. Butler-Bailey, Mr. Taylor said he is comfortable with working with Town staff on the landscaping. Mr. Taylor said he believes the remaining peer review comments are minor and can be worked out easily.

PUBLIC PERIOD COMMENT OPENED:
PUBLIC PERIOD COMMENT PERIOD ENDED

Mr. Anderson asked if the future pump track is part of the Board's approval this evening, or will the applicant need to come back for approval. Ms. Eyerman said it is part of tonight's approval for its location.

Mr. Anderson asked Mr. Taylor about the status of the sidewalk issue. Mr. Taylor replied that there have been discussions with the Town about a number that is acceptable to the applicant for payment of the sidewalk impact fee. Mr. Fox confirmed with Ms. Eyerman that the sidewalk will not be constructed but the applicant will pay toward the future development of the sidewalk.

James Anderson MOVED and Vincent Grassi SECONDED a motion to grant Gorham Bike and Ski, Inc.'s request for subdivision amendment and site plan approval to allow for creation of an additional lot at Raceway Innovative Campus Subdivision and construction of a 4,996 square foot commercial/residential mixed use building and a 936 square foot storage/residential mixed use building, outdoor dining, sidewalk, bicycle test track, parking lot and landscaping for the property located at Raceway Drive, Map 39, Lot 2-2, in the Narragansett Mixed Use Development District, with Findings of Fact

and Conditions of Approval as written by the Town Planner and modified by the Board this evening. Motion CARRIED, 7 ayes.

ITEM 6 Private Way - Jonathan and Cynthia Smith - Country Lane - a request for approval to construct a 150 foot extension to Country Lane, zoned R, Map 69, Lot 41.008.

Mr. Anderson advised the Board that he works for Great Falls Construction, Jonathan Smith is the applicant for this item, and asked that he be recused from participation in this item.

Scott Firmin MOVED and Thomas Hughes SECONDED a motion to allow Mr. Anderson to recuse himself. Motion CARRIED, 6 ayes (James Anderson abstaining).

Ms. Eyerman told the Board this is an application to add a 150 foot extension to an existing private way, Country Lane, and there is a new plan before the Board with review comments. Ms. Eyerman said that a waiver for a maintenance agreement has been requested because the Smiths own the road outright and have the sole maintenance requirements.

Owens McCullough, Sebago Technics, appeared on behalf of the applicants, and told the Board that the Smiths' one son is building a house on Country Lane, and the Smiths' other son has interest in the lot next door. They don't have frontage for two lots, so some additional frontage needed to be created so the other son could also have a lot. As part of the process, test pits have been dug and the condition of the existing portion of Country Lane has been verified as meeting Town standards. The waiver for the maintenance agreement is because the Smiths have owned the original Country Lane private way since back in the 1980s and it has been maintained by the Smiths. Mr. McCullough said that one of the lots had less than the required 200 feet of frontage, but he has fixed that. He said the comments from the review engineer are centered around erosion control; he has responded to those comments, including the double row of silt fencing.

Mr. Firmin said he has some concerns about the maintenance agreement waiver request, and asked if it would be possible to say that should the property be sold, a maintenance plan would become required, noting that the Board's granting the waiver is contingent on somebody doing something they have always done, but once they stop doing what they have always done, who will do what they did. Mr. McCullough suggested adding a note to the plan saying that should that right of way be sold, the maintenance responsibilities would go with the sale of the right of way and would transfer with the land. Ms. Eyerman said that would be helpful to keep track of the situation; Mr. Firmin agreed that would suffice. Ms. Eyerman suggested the plan note be added as a condition of approval, that the maintenance and upkeep of the private way will be the responsibility of the private way owner. Mr. McCullough said the plan note could include upkeep of plowing, surface care, removal of vegetation, drainage repairs.

After further discussion, Mr. McCullough said he will ask Mr. Smith to sign off on the private way maintenance agreement included in the Board's packet. Under those circumstances, no waiver is required.

George Fox MOVED and Thomas Hughes SECONDED a motion to grant Jonathan and Cynthia Smith's request for approval for Country Lane 150 foot extension, a private way designed to the Town's 2 to 6 lot dwelling unit gravel private standard, located on Map 69, Lot 41.008, situated in the Rural zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner, and as amended by the Planning Board. Motion CARRIED, 6 ayes (James Anderson recused).

Mr. Anderson returned to the podium.

ITEM 7 Private Way - Grant and David Gushee - Gushee Drive - a request for approval to construct an 875 foot private way to serve two lots, off Ira Drive, zoned SR-MH, Map 75, Lots 2 and 2.004.

Ms. Eyerman advised the Board that this is a request for a 875 private way off Ira Drive, which is Line Road, one private way attaching to another private way. This road would be owned by the Gushees, who have asked for a waiver, lot sizes need to be shown to be sure they comply with the zoning ordinance minimum, and the cross section shown on one of the sheets needs to match what the Town's standard is for the 2-6 gravel private way. Ms. Eyerman noted that there are a number of peer review comments that need to be addressed, as well as some staff comments.

Drew Olehowski of Haley Ward appeared on behalf of the applicants and introduced David Gushee. Mr. Olehowski said the applicants are proposing a new private way off Ira Drive, off Line Road, the purpose of which is to provide access to two new lots with single family homes. Mr. Olehowski referred to the waiver for a maintenance agreement as the Gushes own all of Ira Drive, and asked that a note could be added to the plans that the Gushees will take care of both of the roads. He said, however, that perhaps the applicants can do what the previous applicant agreed to. Mr. Olehowski said that most of the comments from the peer review engineer are minor design changes, such as the double silt fence as mentioned in the previous application, with most of the comments regarding the grading of the new road. He said there is an old stone wall along the southern property line, which the applicants would like to preserve, but in order to do that they would have to use less of a 50-foot right of way and the ditches would have to be a bit steeper than the ordinance calls for.

Ms. Butler-Bailey said that she believes the private maintenance agreement should be handled in the same fashion as was done in the previous application. The rest of the Board did not disagree.

Insofar as the engineering comments are concerned, at Ms. Butler-Bailey's request, Ms. Eyerman said she would prefer the two engineers have a conversation with her being present at the time. Ms. Eyerman said there were also some other ordinance issues to be resolved.

Ms. Butler-Bailey said that at this time it appears that the Board does not have enough information to deal with the review engineer's comments. Mr. Fox agreed, as did Mr. Firmin. Ms. Butler-Bailey said she is not comfortable dealing with what might be an ordinance issue as a condition of approval. Mr. Anderson said it would be difficult for the Board to waive something

that is a requirement of the zoning.

Ms. Eyerman confirmed that there is a one week window for submission before the next Board meeting, so if the applicants can have a conversation with the Town's review engineer and submit a new plan within that window, then they can be on the Board's agenda for the February meeting.

George Fox MOVED and Thomas Hughes SECONDED to table further review of Grant and David Gushee's request for approval to construct an 875 foot private way pending responses to remaining issues and finalizing revisions to the plan. Motion CARRIED, 7 ayes.

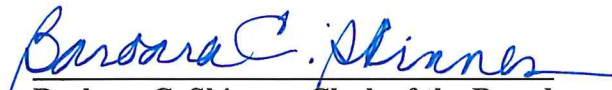
OTHER BUSINESS **None.**

ANNOUNCEMENTS **Mr. Firmin advised the Board that since he cannot commit to attending all Planning Board meetings because of his schedule with the Portland Water District, he will not seek another term on the Board. Ms. Butler-Bailey indicated she, too, will not seek another term. Mr. Fox indicated that he will not seek another term.**

ADJOURNMENT

George Fox MOVED and Vincent Grassi SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [9:25 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board
January 3, 2022