

**PLANNING BOARD MEETING MINUTES
MARCH 7, 2022**

MEMBERS PRESENT

**MOLLY BUTLER-BAILEY, CHAIRWOMAN
JAMES ANDERSON
SUSAN DURST
SCOTT FIRMIN
GEORGE FOX**

STAFF PRESENT

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

MEMBERS ABSENT

**VINCENT GRASSI
THOMAS HUGHES**

Chairwoman Molly Butler-Bailey called the meeting to order at 7:00 p.m. The roll was called with Vincent Grassi and Thomas Hughes absent.

APPROVAL OF THE FEBRUARY 14, 2022 MEETING MINUTES

George Fox MOVED and Susan Durst SECONDED a motion to approve the February 14, 2022 meeting minutes as written and distributed. Motion CARRIED, 4 ayes (Scott Firmin abstaining as not have present at the meeting; Vincent Grassi and Thomas Hughes absent).

COMMITTEE REPORTS

- A. Ordinance Review Committee:** Susan Durst reported that the Committee met to discuss the performance guarantee and site plan review process. Mr. Poirier said he needs to reach out to the other two members of the Committee because discussed was adding a requirement for staff review if industrial or commercial lots which are approved for subdivision propose to expand the allowed building sizes.
- B. Comprehensive Plan Implementation Committee:** Chairman Anderson reported that this Committee meet to discuss new performance standards for the Urban Residential expansion district to allow more apartments and multi-family housing in certain areas. The Committee agreed the item should go before the Board to hold a full review some time in the future.

ADMINISTRATIVE REVIEW REPORT:

Ms. Eyerman said the Moderne Rug site plan was approved and is under construction, and the Sebago Brew Pub project pre-construction meeting is to be scheduled. No new applications have

been received.

ITEM 1 Public Hearing - Land Use and Development Code Amendment - Zoning Board of Appeals - a proposed amendment to the Land Use and Development Code to allow a refund of Zoning Board of Appeals application fees.

Mr. Poirier told the Board that this item was last before it at the February 14, 2022 meeting, at which time the Board felt that the change was minor, so it has been scheduled for public hearing this evening. The amendment allows a refund of an applicant's fee if the Zoning Board rules in favor of the applicant.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED

Scott Firmin MOVED and George Fox SECONDED a motion to recommend adoption by the Town Council of the proposed Zoning Amendments for Zoning Board of Appeals Refund under Chapter 1, Section 1-4 - Zoning Board of Appeals. Motion CARRIED, 5 ayes (Vincent Grassi and Thomas Hughes absent).

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 advised the Board that this item was last before the Board for public hearing on January 3, 2022. As a result of comments received, the Board decided on a tiered approach to the sizes of events being allowed, adding some numbers for larger events, and outlining permitting requirements for larger events. The proposed amendment was sent back to the Board's Ordinance Committee, who reviewed it at their February 14, 2022 workshop. The changes are included in Section 2 a. regarding events that have under 100 attendees or larger events with more than 100 attendees. Events with more than 100 attendees at any one time are required to get an Agritourism Event Permit and the number of events is limited to 10 events in a calendar year, with no more than 3 events occurring per month. Public comments were taken at the Ordinance Committee's workshop; it was agreed that the proposed changes identified the issues expressed at the public hearing.

PUBLIC COMMENT PERIOD OPENED: Linda Pearson, 43 Mighty Street, appeared on behalf of Charlie Pearson, who is home after knee replacement, and read into the record the following:

"I want to thank the Planning Division, Ordinance Committee, and all of you for coming up with a workable compromise that promotes agriculture as well as at the same time protects the interest of neighbors. Compromise is something that seems elusive in modern America, so once again I thank you for striking a balance.

Charlie Pearson"

Continuing, Ms. Pearson expressed her thanks to the Ordinance Committee and the Planning Board members for their due diligence in listening to the concerns of Gorham residents and farmers. She said that although they didn't convince the Board that ownership should be required to participate, the Board saw and took into consideration some important issues of traffic, noise, public safety when it came to large events. She said she is glad to see that there is common ground at which we all can happily co-exist in agritourism and thrive and the whole community will benefit. She said it is with great pleasure that she says, great job everyone, and by this I mean the Town residents, the farm community and the Board members. This a great example of a Board that does what is best for the whole Town. She said that she believes with all of us working together we can make agritourism work and benefit us all.

PUBLIC COMMENT PERIOD ENDED

Ms. Butler-Bailey said she is pleased that the issues are mostly resolved and she is comfortable with passing the ordinance with its proposed changes. Mr. Anderson agreed that the various workshops and meetings resulted in what the parties involved were looking for.

Susan Durst MOVED and James Anderson SECONDED a motion to recommend adoption by the Town Council of the proposed Land Use and Development amendments to provide for Agricultural Tourism under Chapter 1, Section 1-5 - Definitions, and Section 1-8 - Rural District, as amended by the Planning Board. Motion CARRIED, 5 ayes (Vincent Grassi and Thomas Hughes absent).

ITEM 3 Public Hearing - Site Plan/Subdivision Amendment Final Approval - Hans Hansen, Stargazer Subdivision - a request for final approval to combine 6 existing residential lots into one condominium lot and mixed commercial and residential uses on property located on Map 3, Lots 22.502-507, Contract Zone.

Ms. Eyerman advised the Board that the project was reviewed by the Board in April of last year with preliminary approval being granted at that time. The proposed subdivision falls within a Contract Zone that was approved in 2020 by the Town Council. Items of note include confusion about the driveway, whether it is a "driveway" or a private road. Preliminary plan approval requires a traffic study and impact analysis, the information submitted for financial capacity does not meet the ordinance requirements, the condominium association documents are required before final approval would be granted, sewer impact fees and improvements to Blue Ledge Road are required under the Contract Zone, and also required is landscaping for individual sites, especially for the drive-through. Building elevations are not included because the applicant does not propose to construct the buildings, so the Board may wish to consider a waiver from that. Waste disposal has not been identified as the building owners and their choices for waste disposal providers have not been provided; this information could be included as a Condition of Approval for the new property owners as they come before the Board for review. Specific details about lighting details need to be added to the plans in association with Blue Ledge Road and again when the sites are individually developed. Ms. Eyerman noted that other staff members have given their comments, as well as comments from the Town's review engineer.

Norman Chamberlain, II, P.E., Walsh Engineering, appeared on behalf of the applicant Hans Hansen. He said he knows that certain preliminary information is still required, and they are here before the Board to be sure that they make a presentation within the year since preliminary approval was granted. Mr. Chamberlain said this is a 7 lot subdivision, lot one is where Cumberland Farms and Seedlings to Sunflowers are located, and there are 6 lots on the other side of the development. The proposal is to combine the six lots back into one lot, lot 2, and to create condominium areas. Unit 1 would consist of 7 residential houses, self contained, with a purchaser of the lot able to develop the 7 lots, private way and stormwater. The two lots in the middle are commercial, with an opportunity have 2 residential units on the second floor on one lot and 1 residential unit on the second floor for the other. At the end there would be 5 condominium units. All 4 lots would be sold separately, and it is not known what will be on them, other than the two residential units will be for 55 and over, and the two commercial units. A traffic study is being prepared now, and additional traffic studies could be required for a medical office use. Once the nitrate analysis on the wells has been completed, an amendment is required for DEP's Site Location of Development Act Permit. Financial capacity information would be provided for the public improvements involving Blue Ledge Drive, and financial capacity information for development of the 7 lot subdivision would be a separate entity.

PUBLIC COMMENT PERIOD OPENED: Johann Buisman, 23 Burnham Road, said his concern involves any visual impact he may have due to the location of his house. He said he and his neighbor live right behind one of the proposed commercial developments, unit 2, and said he now can see the traffic signal at the intersection, the gas station, and also the Mercy Hospital site. There isn't much undergrowth so it is easy to see through the vegetation that is there. He said he is concerned about the 11 parking spaces for the commercial development, with vehicles pointed right at his sunroom and house, with 6 to 8 feet of fill and 3 ash trees for screening, which he does not believe is enough screening.

Hans Hansen, applicant, said he believes the engineers have done a good job and when it is done, it will be done right.

PUBLIC COMMENT PERIOD ENDED

Ms. Butler-Bailey asked about the location of the drive-through. Mr. Chamberlain pointed out the lot under consideration as the site for a bank, but there is no potential tenant at this time. However, a possible tenant would have to come back before the Board on traffic issues and the actual layout of that site. In reply to Ms. Butler-Bailey, Mr. Chamberlain pointed out the 100 foot buffer along the property line, and said some screening has been done along the parking lots but they perhaps could attempt to provide more screening.

Mr. Chamberlain explained to Mr. Anderson what they are seeking approval for, the 6 lots which had been designated as single family residences but have not sold. Mr. Chamberlain said that this proposal is an attempt to get a development that someone might be interested in. He said they are revising the subdivision, changing the original 7 lots into 2. Mr. Chamberlain told Mr. Anderson that Blue Ledge Road is in, with some minor changes needed.

Mr. Anderson asked Ms. Eyerman what the performance guarantee would be for. She replied that it would be for the road with the infrastructure connected to it, and each individual lot as it is

purchased and sold and approved will also have separate performance guarantees.

In reply to Mr. Anderson, Mr. Chamberlain said the road would be a shared road for 7 units, built to private way standards, with the home owners being responsible for maintenance. Ms. Eyerman said that perhaps Mr. Chamberlain could work with staff on the configuration.

George Fox MOVED and James Anderson SECONDED a motion to postpone further review of Hans Hansen Inc.'s request for final subdivision, private way and site plan approval pending responses to remaining issues and revisions to the plans). Motion CARRIED, 5 ayes (Vincent Grassi and Thomas Hughes absent).

ITEM 4 Pre-Application - Ricky Jones, Subdivision - a request for approval of a 5-lot Clustered Residential Subdivision at 36 Middle Jam Road, zoned SR and Shoreland, Map 97, Lot 37.

Ms. Eyerman told the Board that the application is for a clustered subdivision off Middle Jam Road and is located within the Suburban Residential Area, Manufactured Housing and Shoreland Overlay zoning districts. The site has on it a house and barn, open fields, canopy trees and understory. The clustered idea has been reviewed in a workshop, discussing what was looked for in the first plan, to include which direction does the water flow, what resources the applicant is looking to preserve and/or work around, creating an open space network for residents to enjoy.

Dustin Roma, DM Roma Consulting Engineers, representing Ricky Jones, told the Board that the parcel is about 6.8 acres with existing road frontage of 820 feet on both a public road, Middle Jam Road and 530 feet of frontage on Kayla Way, a gravel road. In preliminary discussions with Town staff it was decided that further analysis of Kayla Way to determine its adequacy in proving access to the frontage for a couple of potential additional lots. Mr. Roma pointed out various areas of the site, saying that the wooded area along Middle Jam Road has mostly open fields behind it. There is some interest in potentially renovating the 1920s farmhouse that is on the property and the applicant has begun discussions with the Code Department about keeping that building but have not committed to 100% on the idea, as they may instead replace that structure with a new building and create a lot around it. The property does have a Shoreland associated with it for the impoundment of North Gorham Pond on the Presumpscot River; Mr. Roma pointed out the boundary of the 250 Shoreland zone area, saying that there is nothing within the 100 foot setback of the water except with the development of the existing house. He said there will be some activity going on in that area, whether it is through renovation of the structure or construction of a new replacement structure. Access into the property will include a review of a combination of both preserving the tree line along the roadway and not open it up with a lot of driveways, possibly just one cut into that forested area for a couple of combined driveways. Due to sight line conditions on Middle Jam Road, there aren't many options for driveway locations so it works out that a couple of driveways can be consolidated as well as preserving the forested areas. Soils on the site are fairly well drained. An open space design for the project is being prepared, including some of the view vantage points from the context of surrounding properties to preserve as much as that as possible. There are no significant features such as stone walls, significant trees or fences on the site that would be something to design the

open space around.

Ms. Butler-Bailey said that at this time the Board is reviewing the conceptual design, looking at current conditions but not discussing plans at this point. The Board is looking at the open space design, with the subdivision plan to be designed around the open space plan.

PUBLIC COMMENT PERIOD OPENED: Marianne Kane, 27 Middle Jam Road, directly across the road from the proposed project. She commented that the plans discuss a barn, which was torn down 10 years ago and buried on the property. The plans show 2 buildings, there is only 1, there is no second building. Ms. Kane pointed out drainage paths, suggesting that several homes around Gorham Pond get their water from the Pond, so an awareness of some of the drainage paths is important. Ms. Kane said that the current condition of Middle Jam Road means that no one uses it as a cut-through and construction traffic and eventually traffic from the residents will impact the Road even further. She asks if the proposed number of units the maximum is all that can be supported, or will there perhaps be a phase 2.

Darren Bellissimo, 46 Middle Jam Road, spoke about the drainage issue in the road.
PUBLIC COMMENT PERIOD ENDED

In reply to Ms. Butler-Bailey, Ms. Eyerman said that no calculations have been done yet to answer Ms. Kane's question about how many units the site can support as all that is under consideration at this time is the open space. Mr. Roma said they are aware of the drainage issues.

Ms. Butler-Bailey confirmed with Mr. Roma that the open space plan under consideration is more to protect open space vistas, but this is not the type of property to support walking trails and any active recreation.

Mr. Anderson asked Ms. Eyerman how the Town will reconcile the condition of Middle Jam Road with the developer coming in and hauling in heavy equipment, dump trucks and the like. Ms. Eyerman replied that usually a conversation is held with Public Works Director and staff. Mr. Fox said some consideration could be given to how the traffic is routed on Middle Jam.

Mr. Anderson and Mr. Roma discussed the brook that runs along the property line, the brook being the property line along the southern side. Mr. Roma confirmed that a small outbuilding in the back has been removed.

Ms. Butler-Bailey asked the Board if the proposed open space use to protect abutters' view space is an appropriate use. Mr. Fox asked if the proposed clustered use is the best use for that property, saying that the traditional layout might be more in keeping with the neighborhood. He said if the process still allows the Board to determine the direction in which the project should go, as he believes the question is worth answering before a discussion of the proposed open space occurs. Ms. Eyerman said that provision for the Board to determine the best form of development is no longer in the ordinance, and in this instance, what the applicant should provide for the next meeting should be an open space plan, pictures of what the vista would look like, etc. She suggested that perhaps a site walk would be useful so the Board can see the idea

behind preserving the vista. Ms. Eyerman said the next plan should be visual.

Mr. Fox said he would encourage the Board to consider the nature of the neighborhood in reviewing a clustered subdivision. Ms. Durst asked if it is possible to ask for a conventional subdivision plan as well. Mr. Roma said he understands that the nature of the neighborhood needs to be taken into consideration, but believes that the nature of the site would allow the perception of a conventional subdivision, even though the lots may actually be clustered with open space in the back yards.

Mr. Fox said the proposed open space to reduce a visual impact on the neighbors is probably the best approach for this site. Ms. Butler-Bailey agreed, especially if the trees in front are to be left as screening as well as the forested area in the back.

Mr. Roma asked if a site walk would occur before they submit their open space plans or would a site walk happen after a Board meeting. Ms. Eyerman said she recommends having a site walk prior to the submission of a preliminary plan, but in this case the site walk could occur after receiving the open space proposal.

ITEM 5 Pre-application - James Davenport - Private Way - a request for approval of a one-lot private way located within the Fort Hill Road Subdivision for Kirk Nadeau, zoned R, Map 65, Lot 3-1.

Ms. Eyerman advised the Board that this is a 1 lot private way for a lot with a single family house, located within the Kirk Nadeau subdivision approved by the Board last year. It is proposed that a temporary structure be erected for the applicant to live in while a permanent house is being constructed. She said some clarification is needed as to what the first structure will look like, will it be a garage with an apartment above it, as different review standards may be appropriate. Attorney clarification is still pending on questions raised in the applicant's letter to the Board about a deed restriction on the lot.

Andrew Morrell, BH2M Engineers, appeared on behalf of the Board and said this proposal is on lot one of the Nadeau subdivision. The applicant's plan is to build a temporary structure and live in while their primary residence is being constructed, move into that residence when it is completed, and then rent out the temporary structure. Mr. Morrell said that a meeting with Code Enforcement showed that a lot can support two buildings if it has the double the required street frontage and double the area. The 10.9 acre lot, 60,000 square feet minimum, obviously is double the area, but double the frontage is where a problem arises. The lot currently has 200 feet of frontage, so they don't have the required double frontage, which is the reason that they would put in the private way to create double frontage for the two residences. The proposed private way is approximately 230 feet long, long enough to get the hammerhead to the rear of the existing pond on site. Mr. Morrell said that the Code Enforcement officer asked that it be proved on paper that this lot could support two lots with both frontage and area. The Fire Chief asked that the width of the driveway to be extended to the private way width, at least past the first residence, to allow easier access for fire apparatus, as well as locating the turn around at that point. A discussion with staff also involved relocating the driveway so it is not off the end of the

private way, probably at the "t" of the turn around. Code Enforcement indicated that in their opinion this would need to be a two-lot private way, so this would need to be a two to six lot private way standard. Mr. Morrell said that a subdivision amendment would be required by adding a private way on the lot.

Mr. Morrell said that the main item on which Board direction is needed involves plan note 18 on the original Nadeau subdivision, which reads that "Lot 1 will be deed restricted to a single family house lot only." That note was imposed on the plan because it was a family piece of land and the note was designed to prevent maximum development in the future. Mr. Morrell said that lot 1 could obviously support 5, 6 or 7 houses, but at the time the interest was to protect and make sure that this lot was not developed to its fullest extent. Mr. Morrell said that this applicant's question to the Board is if this configuration meets that requirement, which he believes is being reviewed by the Town Attorney. In addition, Mr. Morrell raised a question about whether the temporary structure meets the definition of an accessory apartment. He quoted the definition as follows: "Accessory apartment is a separate dwelling unit that has been added or created within a single family house for the purposes of providing separate living accommodations." He said his interpretation of that is the accessory apartment needs to be attached to the primary residence, which he believes is also the interpretation of the Code Officer. Therefore, Mr. Morrell said he does not believe this meets the requirement of an accessory structure.

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

Ms. Butler-Bailey said she remembers the initial subdivision approval and the provision regarding lot 1. She asked Ms. Eyerman for confirmation that the question of the plan note is one that the Town's Attorney needs to address before the Board can consider it. Ms. Eyerman said she believes the Town Attorney needs to determine if anyone can remove a deed restriction. Mr. Fox noted that it is a deed restriction, not a subdivision restriction.

Mr. Fox confirmed Mr. Morrell if the intent of the temporary housing is that it is to be rented after it is used by the applicants.

Ms. Butler-Bailey said the driving question at this time is the deed question. Mr. Morrell said he agreed, but wanted to know if the Board had questions on anything else.

OTHER BUSINESS

Ms. Butler-Bailey thanked Ms. Eyerman and the two other Board members who are also leaving the Board, saying it has been a great experience working with them, as well as with the rest of the Board. Mr. Firmin said he has enjoyed working with Ms. Eyerman, Tom Poirier and the other Board members and that it has been an interesting experience. Ms. Eyerman thanked Ms. Butler-Bailey, Mr. Firmin and Mr. Fox for their shared expertise with her.


ANNOUNCEMENTS

None

ADJOURNMENT

James Anderson MOVED and Susan Durst SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Vincent Grassi and Thomas Hughes absent) [78:22 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board

