

**PLANNING BOARD MEETING
April 3, 2017**

Municipal Center, Burleigh H. Loveitt Council Chambers
75 South Street, Gorham, Maine

Members Present

EDWARD ZELMANOW, Chairman
SCOTT HERRICK, Vice Chairman
JAMES ANDERSON
SCOTT FIRMIN
GEORGE FOX
LEE PRATT
MICHAEL RICHMAN

Staff Present

THOMAS M. 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 everyone was present.

APPROVAL OF THE MARCH 20, 2017 MINUTES

Scott Herrick MOVED and James Anderson SECONDED a motion to approve the minutes of March 20, 2017. Motion CARRIED, 7 ayes. (7:03 p.m.)

ANNUAL ELECTION OF OFFICERS

The Clerk opened the nominations for the position of Chairman. Scott Herrick nominated and James Anderson seconded Edward Zelmanow for the position of Chairman. There being no other nominations, the nomination of Edward Zelmanow as Chairman was voted and approved, 7 ayes.

The Chairman opened the nominations for the position of Vice Chairman. George Fox nominated and Lee Pratt seconded Scott Herrick for the position of Vice Chairman. There being no other nominations, the nomination of Scott Herrick as Vice Chairman was voted and approved, 6 ayes (Scott Herrick abstaining).

COMMITTEE APPOINTMENTS

Mr. Zelmanow said there are two standing Planning Board committees, one being the Ordinance Review Subcommittee, and the other being that for streets and ways. Inasmuch as the streets and ways committee has not met in recent years, Mr. Zelmanow and the Town Planner believe that this committee should be absorbed into the Ordinance Review Subcommittee, which will review anything that streets and ways might have considered. Under discussion is the creation of a new committee that will look at the newly approved Comprehensive Plan and make sure that the Land Use and Development Code is consistent with the Comprehensive Plan. However, before actually forming such a committee, it is necessary to make sure that any committees that the Town Council may have would not overlap with the work done by the Planning Board's committee. Once such a committee is formed, the Board will have two standing committees each with 3 members, with the Planning Board Chairman being able to sit on either committee or just attend the meetings and have general oversight of both committees.

In the meantime, Mr. Herrick, Mr. Pratt and Mr. Firmin will continue serving on the Ordinance Review subcommittee, and the other three Board members, Mr. Fox, Mr. Anderson and Mr. Richman, would go on the new committee once it is formed.

COMMITTEE REPORTS

A. Ordinance Review Committee – Mr. Herrick reported that this committee met earlier this evening to discuss the proposed ordinance to allow retail sales in the Office-Residential zoning district and the creation of a Village Approach zone. The Committee will review the proposed language again in workshop.

B. Streets and Ways – Mr. Zelmanow reported that this committee has not met.

CHAIRMAN’S REPORT – Mr. Zelmanow welcomed Mr. Richman as the Board’s 7th member and thanked Mr. Herrick for volunteering to serve another 3 years on the Board.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier said that there is one new Administrative Review application from Timberland Dry Wall at 626 Main Street for after-the-fact site plan approval for parking expansion and some filling on site.

ITEM 1 PUBLIC HEARING – Site Plan Amendment Review – Maine Coast Kitchen – request for approval to construct a 7,150 square foot condo-plex including parking, access ways, sidewalks and landscaping on Little Wing Lane, located off New Portland Road, Map 12, Lot 12.001, Industrial zoning district.

Mr. Poirier said this item was before the Board as a pre-application hearing on January 9, 2017. The Board should discuss whether a site walk is warranted for the proposal, and the applicant is requesting a setback reduction from the required 100 feet to 50 feet.

Jason Vafiades, Atlantic Resource Consultants, appeared on behalf of the applicant. Mr. Vafiades described the project as a 7,300 ± square foot condo-plex and said the building will be retail/industrial with some work space in the back. The project will be served by private well and septic, and underground power/cable/electric.

Mr. Anderson asked why the applicant is looking for the setback reduction. Mr. Vafiades explained that it was for economic reasons and there is a heavy buffer there already. In reply to Mr. Zelmanow, Mr. Vafiades said that the radii in back of the building are sufficient to accommodate turning of emergency vehicles. Mr. Zelmanow asked that auto-turn plans be provided, based on the largest commercial vehicle that will be accessing that area or the largest emergency vehicle going back there. Mr. Vafiades said there will be a sub-surface propane tank and the bollards shown will be protecting the housing. The sub-surface tank will be called out on the plans. Parking shown meets the minimum required for the building. A discussion was held about moving the dumpster pad to the rear of the site and putting the snow storage area where the dumpster had originally been shown.

Mr. Fox asked what landscaping is proposed for the 50-foot buffer area. Mr. Vafiades replied that additional trees will be planted to buffer the area. Mr. Fox said he would like to see additional buffering from the road. Mr. Vafiades said that the building will not be a typical industrial building. Mr. Anderson suggested adding some false windows or large vents in the gable end to dress up the elevation facing New Portland Road. Mr. Vafiades said that he supposes that the mechanicals will be placed on the back part of the roof; Mr. Anderson recommended screening of the mechanical equipment if it is to be placed on the ground.

PUBLIC COMMENT PERIOD OPENED: Diana Libby, abutter at New Portland Road and Bartlett Road, expressed concern with the reduced setback, saying that there isn't much in the way of foliage to buffer the site, most of it is dead and dying trees. She questioned the tree species proposed, saying that arborvitae don't grow very big. She said the sidewalk would be a good idea, saying that the lot has a wet area toward the front. She is concerned about stormwater drainage and said that the culvert running under New Portland Road, which is at least 40 years old, needs to be cleaned out prior to the rearrangement of the stormwater from this project. She said she understands that the culvert maintenance would be the responsibility of the Public Works Department. In response to her question about an easement for the culvert, Mr. Poirier replied there is probably not an easement, it is just the low area of a natural wetland, and he believes that Public Works at some point put a culvert there to allow a better water flow underneath New Portland Road. Both Mr. Zelmanow and Mr. Poirier reassured Ms. Libby that this new development would not prevent water from her property flowing into the culvert. Ms. Libby expressed concern about the dumping by the current owners in the 30-foot setback behind their present buildings adjacent to her property, if not actually encroaching on her property. She intends to market this piece of property within the next month and wants the dump cleaned out. She said that the stockade fence along the eastern boundary, parts of which have collapsed, needs to be replaced by the applicant as part of the buffer with her property. She asked if blasting is anticipated for the site; Mr. Vafiades replied that there would not be any. She asked if there were going to be two wells; Mr. Poirier advised that there will be only one. She asked about noise regulations and was advised by Mr. Poirier that the language in the staff notes under T. Noise is standard Code language.

Tim Hill, abutter at 11 Little Wing Lane, asked about positioning of the septic. Mr. Vafiades replied that the new building will have a new septic system and the currently shared septic will not be impacted.
PUBLIC COMMENT PERIOD ENDED.

Mr. Poirier said that the Town maintains the inlet and outlet for the culvert, but sometimes the Planning Board has conditioned applicants to clean out culverts in the past, which could be done as part of this approval as well. Mr. Vafiades said that his client is amenable to cleaning out the culvert.

Staff was directed to schedule a site walk; the corners of the building should be flagged, as well as the parking lot and proposed 50-foot setback. Mr. Zelmanow noted that the screening in place now in front of the site and the culvert should be looked at during the sitewalk.

George Fox MOVED and James Anderson SECONDED a motion to postpone further review of Maine Coast Kitchen's request for site plan approval pending responses to remaining issues and finalizing revisions to the plan. Motion CARRIED, 7 ayes.

Ten Minute Break to 8:00

ITEM 2 PRE-APPLICATION DISCUSSION – Kate and Andrew Thomas – request for approval of Gray Road Housing Development, a 44-unit subdivision, on property located at 642 Gray Road, Map 52, Lot 7, Urban Residential and Manufactured Housing zoning district.

Mr. Poirier explained that the item is on for discussion only and none of the plans have been submitted for review by staff. He said that the application will need to be reviewed under subdivision/site plan requirements, as well as the Town's performance standards for multi-family housing, because three units or more of attached housing is being proposed.

Lee Allen, Nonesuch River Engineering, LLC, came to the podium and introduced Andrew Thomas, the applicant. Mr. Thomas said the property adjoins the Little Falls Recreation Fields and there is a two-unit farmhouse on site, a couple of outbuildings and a red barn. Shortly after purchasing the property and rehabbing the building the septic system failed, so they have run public sewer down Mallison Street from Route 237. Mr. Thomas said their plans are to develop the property and turn it into a 55+ rental community, where he and his wife own and maintain the property. The first phase would be made up of 44 units, 11 quad-plex structures, but another option could be duplexes. Mr. Thomas said he envisions that this project would be similar to Kasprzak's Pheasant Knoll development. Public water and sewer is available now, utilities would be underground, and natural gas is close by. The road would be private. The pace of the development would be driven by financing, demand and time, and said phase A of phase 1, for example, would be two structures in a year or so, with adding on a structure every other year, perhaps 10 to 15 years for completion.

Mr. Allen said the property is in the Urban Residential-Manufactured Housing zoning district. Acreage of the property is about 23 acres, the front half of the property is mostly grassed field area and the back half is wooded. An unnamed stream bisects the property about 2/3 of the way back, at the bottom of a ravine some 15 to 20 feet deep with relatively steep side slopes; Mr. Allen said that crossing over the stream will be an undertaking from both a permitting and a financial standpoint. Proposed will be an 1100 foot road to a cul-de-sac off of that. All the units will be served by public water and sewer, all utilities and the road would be private. All the houses would be sprinkled. There is a proposed sidewalk system to serve the project. Off the cul-de-sac and across the stream it is thought that there would be a trail network that could tie into the Town's network on the abutting recreational property. A Maine DEP stormwater permit, Maine DOT driveway permit, and potentially a Natural Resource Protection Act permit by rule would all be needed.

Mr. Herrick and Mr. Allen discussed that the access road off Gray Road is on a parcel that the applicant has purchased from New England Telephone and will align with Acorn Street. The road is proposed to be 22 feet wide, curbed on both sides with a 5 foot sidewalk, type of curbing to be determined. The sidewalk will be tied into the Gray Road sidewalk. Mr. Zelmanow asked if center islands are proposed for the cul-de-sacs, Mr. Allen replied he will talk to the Fire Chief about that. Mr. Allen replied to a question from Mr. Anderson that 1,000 square feet of lockable storage is required, either a basement or an attic and not accommodated with a separate building. Mr. Thomas said it could also be accomplished with attached garages, which will be a mix of single and two-car garages. Mr. Allen described access to the proposed community garden. In reply to Mr. Anderson, Mr. Allen said that each driveway is to have a minimum from the garage door to the back edge of a sidewalk of 20 feet. Mr. Herrick asked if the possible future development across the brook is to be incorporated into the current development, Mr. Allen replied that it will show only as open space now. Mr. Zelmanow noted that the plan could always be amended for that future development. Mr. Fox asked what is intended for construction of the roadway, would the road be built out initially. Mr. Allen replied that the road would be constructed to at least rough gravel grade with all utilities in place, and then pave to a certain section and stop for the first phase. Mr. Allen confirmed to Mr. Fox that the first units to be built would be those closest to Gray Road, building back after that. Mr. Allen commented that two 8-space bays for visitor parking area are shown on the plans. Mr. Pratt asked that snow storage areas be added to the plans.

PUBLIC COMMENT PERIOD: Laurie Douglas, 69 Sydney's Way, expressed concerns about noise and the possibility of Section 8 housing and impact on the schools if apartment rentals are opened to multiple families. She asked that the house values in the area around this development be protected with apartment buildings in their back yard.

PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow asked staff to explain what is entailed with this development being designated as a 55 plus community. Mr. Poirier said he would have to talk to the Town Attorney to determine if the Board can condition the project as restricted to 55 plus, and if that then is enforceable by the Town. Mr. Thomas said he would not want the Board's approval conditioned on that so the 55 plus can be taken out. Mr. Poirier said that there is a requirement for usable open space for multi-family units, regardless of whether it is 55 plus or not. Mr. Poirier also said that whatever phasing is done, each phase has to be bonded, so if the road is done at one time, it must be bonded for the entire cost, even though it is only gravel. Mr. Herrick said that given the challenge of developing the area across the stream, he would encourage the applicant to consider whether or not that should be locked in as open space at the outset and reserved that way, which would mean that even the Board cannot change its designation from open space in the future.

ITEM 3 DISCUSSION – Land Use and Development Code – amendment to add Agricultural Events Centers as a permitted use and redefine Agricultural Buildings allowing replacement or additions of Agricultural Buildings in the Rural zoning district.

Mr. Poirier advised the Board that this item was sent by the Town Council to the Planning Board to develop language for an Agricultural Events Center ordinance. The Board's Ordinance Subcommittee discussed draft language at its February 28, 2017 meeting, made some changes, the Town Attorney also made some changes, and the language is now before the Board as a full discussion. The next step, based on the Board's actions tonight, would be a public hearing followed by a recommendation to the Town Council.

PUBLIC COMMENT PERIOD: Charlie Pearson, 43 Mighty Street, said he owns a farm, farming is in his background, and he supports farming. His wife was an employee of the US Department of Agriculture for 32 years, retiring as executive director for the Farm Service Agency. He is against this ordinance because in his opinion it is written too broadly, noting that the \$5,000 use requirement is too low and suggested that figures from Federal adjusted gross incomes would be more appropriate. He said that farmers should be benefited, not just someone who owns land. He said there is no acreage requirement, noting that a figure of 500 people is given, and suggested defining farms by incorporating language from the State's Agricultural Protection Act. He said there is no length on limit of events and as written a use can be expanded and would be difficult to enforce and difficult to deny a permit. He said that the uses proposed are not events accessory to agricultural uses and referred to law cases where the uses such as wedding event centers have been found to be a "non-farm use of the property not incidental to farming."

Linda Pearson, 43 Mighty Street, gave a definition of agricultural products and noted that to qualify to participate in Federal and some state agricultural programs, someone has to be determined as being actively engaged in farming and can show that better than 75% of his income is from agriculture. She said that parking 300 cars on agricultural land and constantly impacting that land from other than agricultural uses makes the land unviable agricultural land, the farmer would no longer be eligible for a tax break, and it would become a commercial operation. She recited those events she believes are accessory to agricultural uses such as a corn maze, a hay ride, a flower show, horse show, ox pull, horse pull, tractor pull, garden tours, open sugar house, pesticide classes, bee keeping classes, tractor safety programs, 4-H livestock shows and others. Ms. Pearson raised questions about the need for police to be paid for by the event to patrol the event, whether alcohol would be served, and the possibility of liability to the Town. She spoke of several farms which have changed to commercial uses and can no longer claim to be farms.

PUBLIC COMMENT ENDED.

Mr. Herrick commented that this proposed language is one way to allow open space to be used rather than selling it for development. Mr. Zelmanow recommended that the proposed ordinance amendment be sent back to the Board's Ordinance Committee for further review based on some of the comments heard this evening.

OTHER BUSINESS NONE

ANNOUNCEMENTS The next Planning Board meeting will be on Monday, May 1, 2017.

ADJOURNMENT

George Fox MOVED and James Anderson SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. (9:05)

Respectfully submitted,

Barbara C. Skinner, Clerk of the Planning Board
_____, 2017