

**TOWN OF GORHAM  
BOARD OF APPEALS  
MEETING MINUTES  
MAY 19, 2016**

The Gorham Zoning Board of Appeals held a regular meeting on May 19, 2016 at 7pm in the Council Chambers at the Gorham Municipal Center.

Present; Vice Chairman Charles Haws, Board Members; Thomas Hughes, Christine Hume and Alton Shurtleff, Code Enforcement Officer, Freeman Abbott and Deputy Town Clerk, Paula Nystrom. Absent were Chairman Mark Curtis and Board Member Jan Labrecque.

Also present were the owners for the three appeals, Shawn Moody and Ron Greco.

Moved by Thomas Hughes, seconded by Alton Shurtleff and VOTED to accept the March 17, 2016 meeting minutes as printed and distributed. VOTED 4 yeas

Moved by Christine Hume, seconded by Thomas Hughes and VOTED to postpone the election of a new chairperson and vice chairperson to our next meeting. VOTED 4 yeas

**Appeal #16-03** Real Estate Holding LLC, Moody's/Shawn Moody property owner and petitioner is seeking to enlarge an existing non-conforming use of the property located at 200 Narragansett Street (Map 39 Lot 22).

**Public Hearing.** Shawn Moody who spoke on his behalf indicated he is adding 2,688 square feet to the rear of the existing collision repair facility. From this addition there will be two additional work bays for "blueprinting" of vehicles which is to dismantle newly arrived vehicles for a more thorough estimate for repairs. This added space will assist in getting parts needed in advance and to set the repair up to go through the shop as efficiently as possible. Approximately 800 square feet of the proposed 2,688 square feet will be inside storage used to clear up some clutter from the shop. The addition will be made using the same material used in the existing building for continuity to the look of the building. No one else from the public spoke and the public hearing was closed.

#### **Staff Criteria Overview**

The Board reviewed the enlargement or replacement of non-conforming use or structure criteria for the appeal resulting in the following Finding of Facts:

- 1) Moved that the proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site, serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, and the visibility afforded to pedestrians and the operators of motor vehicles on such roads. The proposed structure will not have an adverse or additional impact on traffic, lighting, drainage or pedestrian traffic.

Moved by Christine Hume, seconded by Alton Shurtleff. VOTED 4 yeas

- 2) Moved that the proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results. The proposed structure is replacing impervious area (asphalt) with impervious area (roof). This equates to a net zero increase in impervious area therefore there is no additional impact of the storm water runoff.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTES 4 yeas

- 3) Moved that the proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants. The proposed use will not create any additional dust, or airborne contaminates.

Moved by Alton Shurtleff, seconded by Thomas Hughes. VOTED 4 yeas

- 4) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties. The proposed use will not create nuisances to the neighboring properties due to the proximity of the addition and buffering and screening of the existing berms.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 5) The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use. The existing waste water sub-surface systems will not be affected by the addition. There won't be any plumbing in the additional area.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTED 4 yeas

- 6) The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shoreland vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty. The proposed use and structure will not have an adverse impact on fish or spawning grounds etc. because it does not increase the net impervious area of the site.

Moved by Thomas Hughes, seconded by Christine Hume. VOTES 4 yeas

Moved by Thomas Hughes, seconded by Alton Shurtleff to approve the enlargement of a non-conforming structure to allow the 2,688 square foot addition to the legal non-conforming structure/use with conditions the applicant must apply to the Gorham Planning Department for Site Plan approval. VOTED 4 yeas

**Appeal #16-04 Building #1** Ron Greco/KR Commercial Properties LLC owner and petitioner is seeking conversion of a legally existing non-conforming use (auto sales and repair) to another non-conforming use on Map 23 Lot 16 located at 346 South Street, Gorham.

**Public Hearing.** Mr. Greco who spoke on his behalf indicated he has recently purchased the property and would be changing Building #1 from an auto repair garage to auto sales/repair facility. It will have two bays that the tenants will use for the auto repair. In full disclosure, Mr. Greco found out prior to the meeting that there were issues with the deed and that any actions decided tonight at this meeting are contingent on getting the information corrected on the deed. Mr. Greco explained that there are several deeds to the parcel in two different names: KR Commercial Properties LLC and KR Residential Properties LLC which he found out needed to be in the same name for both deeds. He is currently changing the KR Residential Properties LLC to KR Commercial Properties LLC in order to get both deeds satisfied. Mr. Greco said he spoke to his lawyer moments before his appeal came up and it was indicated that this would not be an issue for this appeal to move forward. The footprint to the building will remain the same as it appears currently with two bay doors on the front and one door in the back of the building. No one else from the public spoke and the public hearing was closed.

### **Staff Criteria Overview**

The Board reviewed the conversion of a non-conforming use to another non-conforming use criteria for the appeal resulting in the following Finding of Facts:

- 1) Moved that the existing use was legally established and was made non-conforming by the adoption or amendment of the Lane Use and Development Code and is not a home occupation. This use was established prior to zoning.

Moved by Thomas Hughes, seconded by Christine Hume. VOTED 4 yeas

- 2) Moved that the proposed use is of the same character or less obnoxious than the current non-conforming use to be changed from as referenced by the most restrictive zoning district where the current non-conforming use is permitted in the Town. Converting to Auto Sales from an Auto Repair Garage is of the same use.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 3) Moved that the proposed use shall not create a traffic hazard nor increase an existing traffic hazard. The traffic flow should not increase further than what exists at this site currently.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTED 4 yeas

- 4) Moved that the amount of parking required to meet the minimum ordinance requirements for the proposed use shall be existing on the site and that there will be enough parking available.

Moved by Alton Shurtleff, seconded by Thomas Hughes. VOTED 4 yeas

- 5) Moved that the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use.

Move by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 6) Moved that the amount of surface water runoff from the site shall not be increased only the use of the site is changing.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTED 4 yeas

- 7) Moved that hours of operations of the proposed use are compatible with the surrounding land uses and the hours will be determined by the site plan review.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 8) Moved that the proposed use shall not increase the adverse impact on surrounding properties.

Moved by Thomas Hughes, seconded by Christine Hume. VOTED 4 yeas

Moved by Alton Shurtleff, seconded by Christine Hume to grant the appeal for Building #1 to convert this legally existing non-conforming use to another non-conforming use of an auto sales/repair facility contingent that the Certificate of Zoning Appeal Approval not be filed until the deed is clear and the applicant must apply to the Gorham Planning Department for Site Plan approval. VOTED 4 yeas

**Appeal #16-05 Building #2** Ron Greco/KR Commercial Properties LLC owner and petitioner is seeking conversion of a legally existing non-conforming use (vacant building) to another non-conforming use on Map 23 Lot 16 located at 346 South Street, Gorham.

**Public Hearing.** As Mr. Greco spoke in the previous appeal, Building #2 will be converted from a vacant building to indoor storage and giving up the auto salvage/junkyard use. The building will not be climate controlled for tenants and Mr. Greco plans on putting up partitions to create storage areas. As he indicated in the previous appeal in full disclosure Mr. Greco found out prior to the meeting that there were issues with the deed and that any action decided tonight at this meeting is contingent on getting the information fixed on the deed. Mr. Greco explained that there are several deeds to the parcel in two different names: KR Commercial Properties LLC and KR Residential Properties LLC which he found out needed to be in the same name for both deeds. He is currently changing the KR Residential Properties LLC to KR Commercial Properties LLC in order to get both deeds satisfied. Mr. Greco said he spoke to his lawyer moments before his appeal was heard and it was indicated that this would not be an issue for this appeal to move forward. The footprint to the building will remain the same as it appears currently in the back of Building #1. No one else from the public spoke and the public hearing was closed.

## Staff Criteria Overview

The Board reviewed the conversion of a non-conforming use to another non-conforming use criteria for the appeal resulting in the following Finding of Facts:

- 1) Moved that the existing use was legally established and was made non-conforming by the adoption or amendment of the Lane Use and Development Code and is not a home occupation. This use was established prior to zoning.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 2) Moved that the proposed use is of the same character or less obnoxious than the current non-conforming use to be changed from as referenced by the most restrictive zoning district where the current non-conforming use is permitted in the Town. Converting a vacant building/use to indoor storage from an unused space.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTED 4 yeas

- 3) Moved that the proposed use shall not create a traffic hazard nor increase an existing traffic hazard. The traffic flow should not increase further than what exists at this site currently.

Moved by Alton Shurtleff, seconded by Christine Hume. VOTED 4 yeas

- 4) Moved that the amount of parking required to meet the minimum ordinance requirements for the proposed use shall be existing on the site and that there will be enough parking available.

Moved by Thomas Hughes, seconded by Alton Shurtleff. VOTED 4 yeas

- 5) Moved that the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use.

Move by Christine Hume, seconded by Alton Shurtleff. VOTED 4 yeas

- 6) Moved that the amount of surface water runoff from the site shall not be increased only the use is changed.

Moved by Thomas Hughes, seconded by Christine Hume. VOTED 4 yeas

- 7) Moved that hours of operations of the proposed use are compatible with the surrounding land uses and the hours will be determined by the site plan review.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED 4 yeas

- 8) Moved that the proposed use shall not increase the adverse impact on surrounding properties.

Moved by Thomas Hughes, seconded by Christine Hume. VOTED 4 yeas

Moved by Thomas Hughes, seconded by Christine Hume to grant the appeal for Building #2 to convert this legally existing non-conforming use to another non-conforming use of an indoor storage facility contingent that the Certificate of Zoning Appeal Approval not be filed until the deed is clear and that the applicant must apply to the Gorham Planning Department for Site Plan approval. VOTED 4 yeas

Motion to adjourn.

Moved by Christine Hume, seconded by Thomas Hughes. VOTED to Adjourn. 7 yeas

Time of adjournment 7:55 pm.

A TRUE RECORD OF MEETING

Attest:

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Paula Nystrom, Deputy Town Clerk