

**Town of Gorham
 Planning Board Meeting
 March 6, 2023**

Consent Agenda A - Private Way: Kurt Seiferth is requesting re-approval of an approximately 900 foot long private way built to the up to six (6) lots private way standard to serve up to six (6) dwelling units. The property is located off Hurricane Road on Map 94 Lot 4-2 in the Rural/Manufactured Housing zoning district. The applicant’s agent is Dustin Roma, P.E., of DM Roma Consulting Engineers.

INDEX OF PACKET ENCLOSURES	
DESCRIPTION	PAGE NUMBER
1. Overview	2
2. Items of Note	2
3. Aerial Photograph	2-3
4. Staff Reviews	3-5
5. Findings of Fact, Conditions of Approval and Motions	5-10

PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application (optional)		None held
Private Way Review and Approval		October 4, 2021
Private Way and Re-Approval Review		March 6, 2023

The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and may not be all inclusive of project requirements. Staff notes are review comments and recommendations prepared by the Town Planner and, if applicable, the Town’s peer review consultant, regarding applicability to The Gorham Land Use Development Code and standard engineering practices.

The Planning Board refers to staff notes during the review process; however it shall be noted that staff recommendations are non-committal and all final decisions are those of the Planning Board and not Town Staff.

Jim Anderson, Chair, Gorham Planning Board

1. OVERVIEW

This is the first time the application has come before the Planning Board for re-approval. The private way was originally approved October 4, 2021. The applicant is represented by Dustin Roma of DM Roma Consulting Engineers.

There is an approximate 900 foot long private way shown on the plan for your review.

2. ITEMS OF NOTE

The same review comments apply to the most recently submitted plan and application materials as they did in the 2021 approval with conditions. The plan should be revised based on these comments prior to Board signature. See all staff and peer review comments that follow throughout.

1. Wright Pierce peer review engineering comments from 2021 provides details for revisions to the plan. These still apply to the most recent plan.
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. This was a review comment from the peer review engineer as well as the Town Planner in October 2021.
3. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of a legal majority of the Planning Board, the date of approval, and the words, "Private Way, Approved by the Town of Gorham Planning Board."
4. The maintenance agreement needs to be revised based on the town attorney comments from 2021.

3. AERIAL PHOTOGRAPH

Google Earth image as of May 2018



4. STAFF COMMENTS

Planning Department: 09/24/2021

- Please add a site plan with location map to the plan set.
- 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 plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of a legal majority of the Planning Board, the date of approval, and the words, "Private Way, Approved by the Town of Gorham Planning Board"

Assessing Department: No Comments

Code Department: No Comments

Fire Department: 09/13/2021

MAP 094 Block 004 Lot 002 Plans Date 9-1-2021

1. The buildings will meet all applicable sections of NFPA Fire Code and NFPA 101 Life Safety Code. Building plans shall be submitted to the Fire Department for review and placed in Emergency Reporting Program.
2. The buildings shall be protected under the Fire Suppression Systems Ordinance as applicable. The sprinkler plans shall be submitted to the Fire Department and the State Fire Marshal’s Office for review and permitting. The plans submitted to the Fire Department shall be submitted at least two

Kurt Seiferth – Private Way Re-Approval
Off Hurricane Road – Lisa’s Point Private Way
M94 L4-2

weeks prior to the start of the installation of the system. Sprinkler test papers will be required to be submitted to the Fire Department at the time a CO is issued.

3. The buildings shall be properly numbered in accordance with E911 standards including height, color and location. Numbers that cant been seen from the street shall require additional numbers at the street.
4. The hammer head width needs to be Min. 20’ wide and Min. 50’ deep. Please show measurements on the plans. No drive ways will be allowed off the Hammer Head. Please show driveway’s on future plans.
5. A "No Parking - Tow Away Zone" or “No Parking - Fire Lane" sign should be added to the hammer head.
6. Street names need to be approved by Police and Fire Chief as well as be properly posted. Lisa’s Point has not been approved yet.

Police Department: No comments

Public Works Department: 09/13/2021

No issues as long as there is adequate drainage in the ROW.

Town Attorney: 09/27/2021

The Declaration is the Town’s form, but the name and the address of the Declarant need to be filled in. It may be that they haven’t finalized the ownership name, but this will need to be added for the final subdivision.

Natalie L. Burns, Esq.
Attorney

Wright Pierce: 09/20/2021

SUBJECT: Lisa’s Point – Private Way; Hurricane Road, Gorham, Maine

Wright-Pierce has reviewed the resubmitted Private Way Application information provided for the Private Way at 0 Hurricane Road (Map 94 Lot 4-2) as defined in the above subject line. The proposed project is a 1,116-ft gravel road that will serve one dwelling unit and up to six dwelling units in the future.

DOCUMENTS REVIEWED BY WRIGHT-PIERCE:

- Application for a Private Way – Lisa’s Point – off Hurricane Road (Dated 9/1/2021)
- Plan of a Private Way and Details – Lisa’s Point Sheets 1 and 2 (Dated 9/1/2021)

COMMENTS:

Prepared plans must be stamped by both a Registered Professional Engineer and a Registered Professional Land Surveyor.

The cross section does not conform to the cross section shown in Figure 9 of the Private Way Application. Slope of the road from the centerline should be $\frac{1}{2}$ " per foot.

Table 1 of the Private Way Application shows that the maximum grade of a gravel road that services two to six lots shall be 6-10%. A portion of the proposed private way has a slope of 10%. The Town should determine if a 10% slope is acceptable for a gravel road in this instance.

Table 1 of the Private Way Application shows that the minimum centerline radius of 60-feet, please label the centerline curves.

**TOWN OF GORHAM PLANNING BOARD
FINDINGS OF FACT
FOR
KURT SEIFERTH PRIVATE WAY, RE-APPROVAL**

March 6, 2023

Property Owners: The owners are Kurt and Lisa Seiferth, 3 Cummings Road, Gorham, ME 04038.

Applicant: The applicant is Kurt Seiferth, 3 Cummings Road, Gorham, ME 04038.

Property: The lot is identified as Tax Map 94, Lot 4-2, and is located off Hurricane Road.

Consultant: Dustin Roma, P.E., of DM Roma Consulting Engineers.

Project Description: The applicant is requesting re-approval to construct an approximate 900 foot gravel private way to the up to six (6) standard, located off Hurricane Road to serve up to six (6) lots. The lot is located in the Rural/MH zoning district.

Applicability: The Planning Board has the ability to approve private ways.

Zoning: Rural/Manufactured Housing (R/MH)

Variances: None required.

Waivers: None requested.

Pursuant to the Application:

A private way review and approval was held on October 4, 2021.
Private way review for re-approval was held March 6, 2023.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

(S1) Sheet 1 of 2 - Plan of Private Way: Dated, 09/01/2021; Revised through, 09/01/2021; Received, 09/01/2021
Sheet 1 of 3 - Plan of Private Way: Dated, 02/16/2023; Revised through, 02/21/2023; Received, 02/21/2023
(D1) Sheet 2 of 2 – Details: Dated, 09/01/2021; Revised through, 09/01/2021; Received 09/01/2021

Other documents submitted consist of the following:

Private Way Application – 08/10/2021; Revised 09/01/2021; 02/16/2023
Plans – 08/10/2021, 02/16/2023; 02/21/2023
Declaration of Maintenance – 09/01/2021, 03/01/2023
Gorham Town Planner – 09/24/2021
Gorham Fire Department – 09/13/2021
Gorham Assessor Comments – 08/16/2021, 09/14/2021
Gorham Code Enforcement – No comments
Gorham Public Works Director – 09/13/2021
Wright Pierce – 09/20/2021
Town Attorney – 09/27/2021

FINDINGS OF FACT:

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.

The 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 proposed name of the private way needs to be approved by town staff.

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 prepared by _____, and sealed by Dustin Roma, P.E. #12131.

The Plan title block reads "Plan of a Private Way."

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, H.

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 has been 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 shall meet the ordinance requirements.

Finding: The private way maintenance agreement identifies 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 may serve up to six (6) 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 lot sizes in 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 Hurricane Road which is suitable to serve the proposed private way.

Finding: *The proposed private way will be off of Hurricane 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 town staff and peer reviewers shall be completed prior to Planning Board signature;
5. That at least one week prior to the date of the pre-construction meeting, four complete sets 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;

6. 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;
7. 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;
8. 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;
9. That the approved 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;
10. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
11. 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.

SUGGESTED MOTIONS:

FOR APPROVAL:

Move to grant Kurt Seiferth’s request for approval for an approximate 900 foot private way designed to the Town’s 2-6 lot/dwelling unit private way standard, located on Map 94, Lot 4-2 and situated in the Rural/Manufactured Housing zoning district, based on Findings of Fact and with Conditions of Approval as written by the Town Planner (and amended by the Planning Board).

OR

TO TABLE APPROVAL:

Move to table further review of Kurt Seiferth’s request for private way approval pending responses to remaining issues (and finalizing revisions to the plan).

OR

TO CONSENT AGENDA:

Move further review of Kurt Seiferth’s request for private way approval to a future Consent Agenda pending the submission of revised information addressing outstanding staff and Planning Board comments.