

**ROBERT HOUP – BRANDON’S WAY – M75/L3  
PRIVATE WAY AMENDMENT**

**Town of Gorham  
Planning Board Meeting  
February 7, 2022**

**ITEM 1** - Private Way Review – Brandon’s Way – a request for approval to extend a private road known as Brandon’s Way approximately 671 feet. The lot is zoned Suburban Residential (SR) with the Manufactured Housing Overlay. The lot is shown on Map 75, Lot 3. The property totals approximately 12.2 acres and currently contains 100 year floodplain, wetlands and mature canopy trees and understory. The applicant is Robert Houp and he is represented by Peter Dalphonso, P.E. The current property owner is Robert Houp.

The applicants propose a private way and 3 lots.

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**PROJECT TRACKING**

<b>DESCRIPTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Pre-Application (optional)		None held
Private Way Review		February 7, 2022
Site Walk		

*The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and are not necessarily inclusive of all project requirements. Staff notes contain review comments and recommendations from Town Staff and may include comments from any of the Town’s peer review consultants, regarding applicability to the Gorham Land Use and 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 noncommittal and all final decisions are those of the Planning Board and not Town Staff.*

*Molly Butler-Bailey, Chair, Gorham Planning Board*

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**1. OVERVIEW**

This is the first time the application has come before the Planning Board for review. The applicant is represented by Peter Dalphonso.

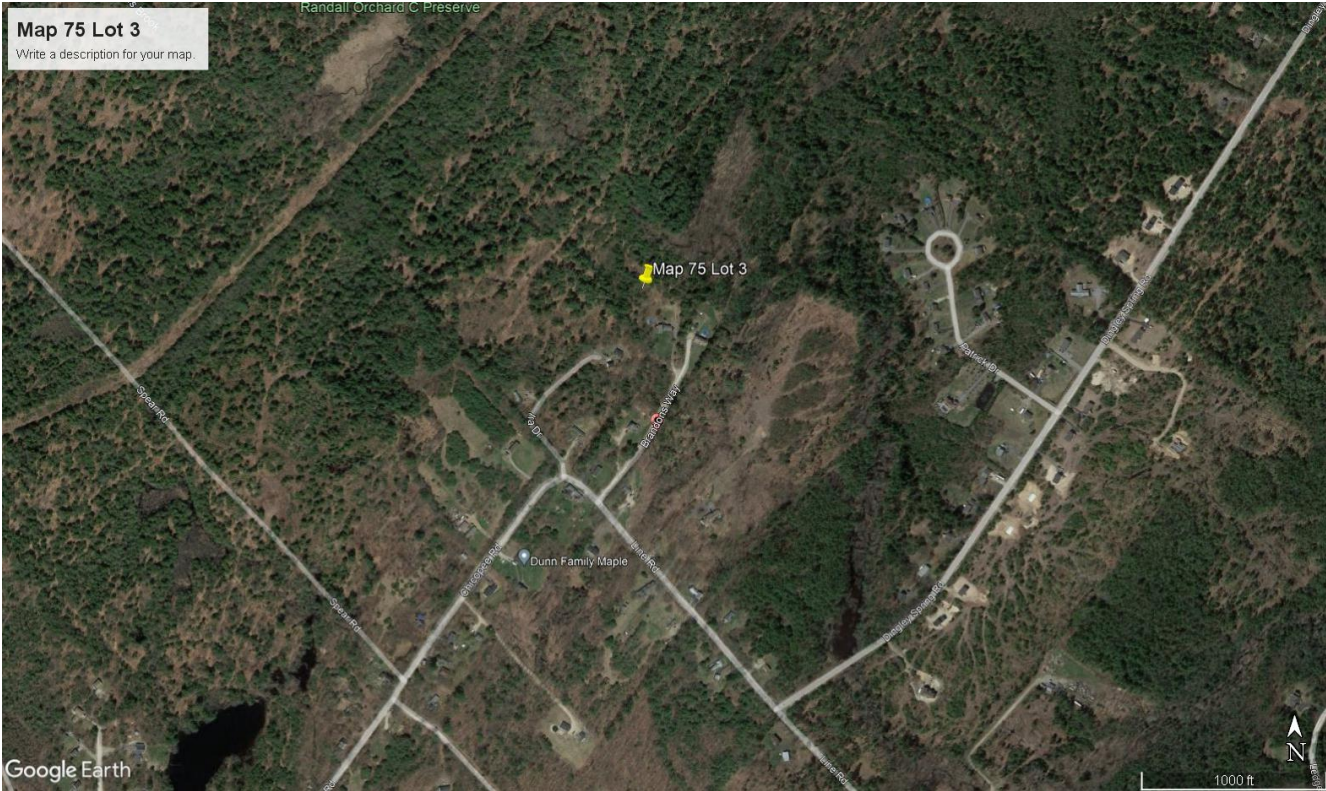
There is a private way extension and three (3) lots currently shown on the plan.

**2. WAIVER REQUEST**

No waivers requested.

**3. ITEMS OF NOTE**

- A. This does not appear to be a subdivision. However, the applicant should provide a written statement that he has lived at his current address for at least 5 years.
- B. Google Earth image



**4. PEER AND STAFF REVIEWS**

**Planning Department: 1/31/2022**

**January 31, 2022**

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- Plan of Private Way - The plan shall be labeled "..., and the words, "Private Way, Approved by the Town of Gorham Planning Board."
- The maintenance agreement should be revised according to the legal review.
- The applicant is proposing to extend a 2 – 6 lot gravel private way. Sheet C-100 Does Not show the required 2-6 lot/dwelling unit gravel private way standard cross section found in Figure 9.

**Assessing Department: 12/28/2021**

**December 28, 2021**

hi,

request copy of plan without topo details

bruce

**Code Department: None Received**

**Fire Department: 12/28/2021**

**December 28, 2021**

**MAP 75 Block Lot 3    Brandon’s Way Ext.**

I have revivied the Plans dated Dec.6, 2021    Brandon’s Way Ext.

1. The hammer head width needs to be 20’ wide and 50’ deep. No drive ways will be allowed off the Hammer Head. Please show driveway’s on future plans if Changes are made.
- 2.A "No Parking - Tow Away Zone" or “No Parking - Fire Lane" sign should be added to the hammer head.
3. Street names need to be approved by Police and Fire Chief as well as be properly posted. **Current Road name is Fine.**
- 4. Past history has repeatedly shown that private ways/drives are very poorly maintained, and wintertime poses a very serious issue of emergency vehicle access, with very little enforcement available to the Town. I would state for the record and make notice that the Fire Department cannot and will not be held responsible for incidents where we cannot gain access to buildings or incidents on these private ways/drives that are not properly maintained.**
5. We may have more requirements as this progresses through the planning process.

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**Police Department: None Received**

**Public Works Department: 12/29/2021**

**December 29, 2021**

I don't have any concerns with the extension. My only question would be are Brandon's way asbuilts accurate?

**Town Attorney: 12/30/2021**

**December 30, 2021**

I've reviewed the Declaration of Maintenance of a Private Way submitted as part of the application. It is not sufficient as drafted. #2 on the form states that the applicant has to insert language establishing how the maintenance responsibilities will be divided between the lots to be served (in this case by the extension). The submitted form includes the instruction language rather than the required language concerning the number of lots and apportionment of costs. It may be that there is only one lot proposed at this time, but the language is still required. If there may be additional lots served in the future, language is generally added for that.

Because this is an extension of an existing private way, we should have an understanding of what maintenance provisions, if any, are in place for the existing portion of the road. I didn't see anything recorded in the Registry and it's possible that the private way predates the Ordinance requirements.

Natalie L. Burns, Esq.

Attorney

JENSEN BAIRD

**Wright Pierce: 1/31/2022**

**January 31, 2022**

As requested by the Town of Gorham, Wright-Pierce has reviewed the Private Way Amendment Application for the proposed Brandon's Way. The review was limited to the General Standards of Performance, as it relates to a Private Way.

**Documents Reviewed by Wright-Pierce**

- Private Way Application with Supporting Documents - prepared by Dalfonso Engineering (December 17, 2021)
- Private Way Amendment Plans, Sheets C-100, C-101, and C-300 - prepared by Dalfonso Engineering (December 17, 2021, Submitted for Planning Board Review)

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- Previously Approved Private Way Plans, Sheets 1 and 2 - prepared by Sebago Technics (Dated July 27, 1999, Issued for Final Submission and Signed August 2, 1999, Planning Board Approval)

**Review Comments**

Applicant should provide written responses to the review comments recommending clarification or further information be provided by the applicant.

**General/Completeness**

1. Site Plan Application was submitted and complete with the following required supporting attachments:
  - a. Deed
  - b. Agent authorization
  - c. Originally approved plan
  - d. Proposed amended plan with new signature block
  - e. Signed maintenance agreement
2. The project site is in the Suburban Residential Manufactured Housing zoning district. Sheet C-101 notes state that it is in the Suburban Residential zone, which is different. Please revise.
3. Project is not within an MS4 urbanized area and is under an acre; therefore, there are no MS4 requirements.
4. 24"x36" plans submitted, which contain a title block with the following required information:
  - a. Applicant's name and address
  - b. Name of preparer of plans with professional information and professional seal
  - c. Parcel's tax map identification (map-lot).
  - d. Date of plan preparation
5. Standard private way notes are provided.
6. The following details should be added to the plan:
  - a. Stone check dam
  - b. Driveway typical section
7. The 12" driveway culvert at approximately Station 14+90 has little to no cover. The culvert inverts are 299.5' and 299.0', which means the crown at the midpoint of the culvert would be approximately 300.25'. The final grade of the driveway at this location appears to be approximately 301.5'. Revise the grading and culvert inverts as needed to provide appropriate cover. Specify a minimum cover depth on the typical trench detail.
8. The 12" driveway culvert at approximately Station 16+50 has little to no cover. The culvert inverts are 291.5' and 291.0', which means the crown at the midpoint of the culvert would be approximately 292.25'. The final grade of the driveway at this location is approximately 292.5'. Revise the grading and culvert inverts as needed to provide appropriate cover. Specify a minimum cover depth on the typical trench detail.

**General Standards of Performance**

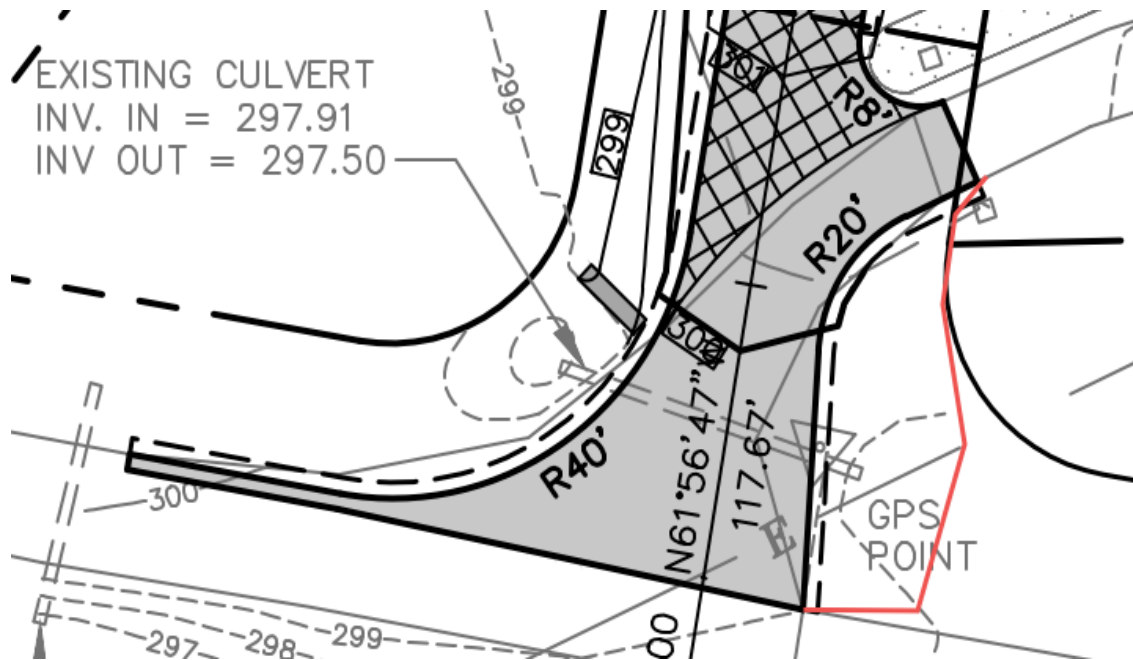
**Environmental**

1. Provide riprap culvert inlet and outlet protection for the existing culvert at approximately Station 10+40. Runoff from the proposed ditch line on the western side of the road will flow to and be conveyed by the existing culvert to the other side of the proposed way. Runoff to this

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culvert will be more concentrated due to the proposed ditch than in the existing condition. Although stone check dams are proposed, there should also be protection at the inlet and outlet of the culvert.

2. A form of temporary inlet protection should be used during construction on the inlet side of the existing culvert at approximately Station 10+40 to protect it from sedimentation. Some possible recommendations include hay bales or proprietary filter inserts.
3. Additional perimeter erosion controls, such as silt fence, erosion control mix berm, or filter sock should be proposed on the eastern side of the proposed private way near the beginning of the extension of Brandon’s Way. See sketch below of an approximate suggested layout (in red). As currently proposed, runoff from the disturbed soils in this area would be allowed to leave the site unimpeded by erosion controls.



4. The proposed private way is outside of the 75’ stream setback.
5. The 100-year floodplain, as identified on the most recent effective FEMA FIRM, should be shown on the plans. FEMA maps show the project may be within or in close proximity to the floodplain. Provide comment on compliance with Chapter 2, Section 2-1, Paragraph D Floodplain Management of the Gorham Land Use and Development Code.
6. Portions of the site are within the Shoreland Protection District. Please show the extents of the Shoreland Protection District and provide comment on compliance with Chapter 2, Section 2-1, Paragraph E Shoreland Area Protection of the Gorham Land Use and Development Code.

**Private Way Requirements**

1. Applicant indicates Brandon’s Way will serve 3 lots. Confirm that Brandon’s Way will not be serving more than 6 dwelling units.
2. The proposed private way extension meets the aggregate type and depth requirements of Table 2 for a gravel private way serving 2-6 lots.
3. Portions of the proposed private way extension do not meet the width and slope requirements for a gravel private way serving 2-6 lots. Proposed ditch slopes from approximately Station

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13+25 to Station 14+50 on the westerly side are steeper than required and do not match the typical cross section. If slopes steeper than 3:1 adjacent to the road and 2:1 on the outer side of the ditch are desired, a waiver should be requested.

4. A ditch is not proposed along the easterly side of the private way. Runoff from the easterly side of the private way will be directed towards the abutting property. Please provide a ditch or provide comment on this design decision and how you anticipate it to affect the abutting property.
5. The title of the signature block on C-100 should be updated to read “Private Way Amendment” rather than “Subdivision Plan”.
6. The Applicant submitted a Maintenance Agreement; however, the Agreement needs to be updated to include applicable language for item 2 [The Declarant must insert language that will establish how the maintenance responsibility is to be apportioned among the property owners and the owners of any potential future lots]. The address at the beginning of the Maintenance Agreement should be updated to include the Town, State, and Zip code.
7. Monuments for the proposed right-of-way should be shown and labelled on the Private Way Amendment and Lot Split Plan.
8. The applicant submitted a Lot Split Plan; however, Note 15 on the Private Way Amendment indicates the approval this plan is for a private way only. As such and by direction of the Town Planner, the Private Way Amendment Application was only reviewed under Chapter 2, General Standards of Performance as related to a Private Way. Standards related to Chapter 3 Subdivision were not reviewed.
9. Provide comment on whether any utilities other than culverts are proposed within the Private Way.

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**TOWN OF GORHAM PLANNING BOARD  
FINDINGS OF FACT  
FOR  
Robert Houp – Brandon’s Way  
PRIVATE WAY AMENDMENT**

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**February 7, 2022**

**Applicant/Property Owner:** the applicant/owner is Robert Houp, 30 Brandon’s Way; Gorham, ME 04038.

**Property:** The lot is identified as Tax Map 75, Lot 3, and is located off Line Road.

**Consultant:** Peter Dalphonso, P.E.

**Project Description:** The applicant is requesting approval to construct a 671 foot private way extension to the 2-6 lot gravel private way standard, located off Line Road to serve three (3) lots. The lot is identified as Max Map 75, Lot 3, and is located in the Suburban Residential zoning district.

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

**Zoning:** Suburban Residential (SR)

**Variances:** None requested.

**Waivers:** None requested.

**Pursuant to the Application:**

A private way review was held on February 7, 2022.

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:

Dalphonso Engineering plans (the plans) for a private way, prepared by Peter Dalphonso, P.E., consist of the following:

Sheet C-100 – Plan and Profile – Private Way Amendment - dated, 5/20/21; revised through 12/17/21; received 12/17/21
Sheet C-101 - Lot Split Plan – dated, 5/10/21; revised through 12/17/21; received 12/17/21
Sheet C - 300 - Erosion Control Details – dated, 05/10/21; revised through 12/17/21; received 12/17/21

Original Brandon’s Way plans prepared by Owens McCullough of Sebago Technics, Inc.:



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Sheet 1 of 2 - Private Way: Brandon’s Way - dated, 05/10/99; revised through 7/27/99; received 12/17/21  
Sheet ? of ? - Private Way: Brandon’s Way – dated, 05/10/99; revised through 7/27/99; Signed 08/02/1999; received 12/17/21

Other documents submitted consist of the following:

Private Way Application – 12/17/2021  
Declaration of Maintenance – 12/17/2021  
Plans – Received, 12/17/2021  
Gorham Town Planner – 01/31/2022  
Gorham Fire Department – 12/28/2021  
Gorham Assessor Comments – 12/28/2021  
Gorham Code Enforcement – None Received  
Gorham Police Department – None Received  
Gorham Public Works – 12/29/2021  
Legal - 12/30/2021  
Wright Pierce – 1/31/2022

**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 Suburban Residential 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 existing name of the private way is “Brandon’s Way.”

*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 designed by Peter Dalfonso, P. E.

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

The Plan has an approval block that reads: “Private Way, Approved by the Town of Gorham Planning Board.”

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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., E., 3.

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.

A maintenance agreement dated November 12, 2021 has been submitted For review.

*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 paved apron 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.

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The applicant is proposing to extend a 2 – 6 lot gravel private way. Sheet C-100 Does Not show the required 2-6 lot/dwelling unit gravel private way standard cross section Found in Figure 9.

*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. The applicant proposes to serve three (3) residential dwelling units.

*Finding:* The private way is proposing to serve three (3) 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).

Each of the lots will need to retain enough area to meet the lot sizes in the suburban residential 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 of line road which is suitable to serve the proposed private way extension.

*Finding:* The proposed private way will be off of line 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;

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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 staff and Wright Pierce 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 amended 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 Robert Houp’s request for approval for Country Lane extension, a 671 foot private way designed to the Town’s 2-6 lot/dwelling unit gravel private way standard, located on Map 75, Lot 3 and situated in the suburban residential 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**

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**TO TABLE APPROVAL:**

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

**OR**

**TO CONSENT AGENDA:**

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