

**Town of Gorham
Planning Board Meeting
December 4, 2023**

ITEM 3 Public Hearing – Private Way – Begonia, Eric & Renee – 126 Mighty Street – a request to construct a 466-foot private way. Map 66, Lot 8.004. Zoned R. Represented by Peter Dalfonso P.E. with Dalfonso Engineering.

| 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 | 6-11 |

PROJECT TRACKING

| DESCRIPTION | COMMENTS | STATUS |
|----------------------------|-----------------|-------------------------|
| Pre-Application (optional) | | None held |
| Private Way Review | | December 4, 2023 |
| 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

1. OVERVIEW

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

The applicant proposes to construct a 466 foot long 2-6 lot gravel private way. The private way would serve two existing single family homes and provide the necessary frontage to serve one additional single family home to be created from a lot split of Map 66 Lot 8-4.

2. WAIVER REQUEST

No waivers requested.

3. ITEMS OF NOTE

- Existing underground utilities will remain in place along the former alignment of the driveway.
- The existing driveway will connect to the private way at an appropriate location and continue to serve both existing single family house lots.
- An existing culvert is located on the driveway. It appears that this should provide sufficient drainage, but if not an additional driveway culvert at the driveway apron would be required.
- The homes at 124 and 126 Mighty Street will now be served by a private way. As such, their addresses should be updated to ensure they can be quickly located by emergency responders.

4. AERIAL IMAGE

Town of Gorham Public Map Viewer



4. STAFF REVIEWS

Planning Department:

- The sight distances for the proposed private way appear to be adequate, and exceed those provided at the location of the existing driveway
- The applicant checked the box on the application that a “Traffic impact analysis is required for 400+ vehicle trips per day”. This appears to be in error but should be confirmed as such.
- The Plan of Private way notes that Stephen J Martin was the project surveyor, but does not include his stamp
- The Plan of Private way title block reads “Private Way Amendment”, where it should read “Plan of Private Way”.
- The allowable maximum grade at intersections per Chapter 2, Section 2-5, Table 2 is 2% within 60 feet of the intersection. The plan shows a grade of -3.75% at the intersection with Mighty Street.

- A detail sheet showing the paved driveway apron is not provided.

Assessing Department: No comments received.

Code Department: No comments received.

Fire Department: 11/16/2023

MAP 66 Block Lot

I have revived the Plans dated Oct. 31, 2023

1. All new buildings will meet all applicable sections of NFPA 1 *Fire Code* and NFPA 101 *Life Safety Code*. Building plans shall be submitted to the Fire Department for review.
4. The buildings shall be protected under the Fire Suppression Systems Ordinance as applicable. The sprinkler plans shall be submitted to the Fire and the State Fire Marshal's Office for review and permitting. The plans submitted to the Fire Department shall be submitted at least two weeks prior to 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 can't be seen from the street shall require additional numbers at the street.
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. Fire Department may have more or less requirements as this progresses through the Planning Process.

Police Department: No comments received.

Public Works Department: 11/16/2023, 11/28/2023

Town Stormwater: 11/16/2023

Stormwater comments for this project are as follows:

While not a requirement, the Town would like the applicant to consider utilizing Low Impact Development techniques. If the applicant chooses not to implement LID practices, please show why this is not feasible for this project.

A reminder that the Winter Construction season has begun, **and runs through May 1st**. Winter Construction erosion and sedimentation controls / BMP's have a different set of standards than the rest of the year. Please refer to the Maine DEP's Erosion and Sediment Control Practices Field Guide for Contractors for specific requirements during winter construction.

Town Engineer: 11/28/2023

Good Morning, Laura.

I apologize for being late, but after some discussion with Damon, I have the following comments to provide:

- 1) The maximum vertical grade at intersections within 60' of intersection is 2%. The plan shows 3.75%.
- 2) Plans are missing a Land Surveyor stamp.
- 3) Signature block states "Private Way Amendment" and should read "Plan of Private Way".

Thanks!

Eric and Renee Begonia
126 Mighty Street
M66/L8.004

**TOWN OF GORHAM PLANNING BOARD
FINDINGS OF FACT
FOR
ERIC & RENEE BEGONIA – 126 MIGHTY STREET PRIVATE WAY**

December 4, 2023

Applicant/Property Owner: The applicant/owner is Eric and Renee Begonia, 126 Mighty Street, Gorham, ME 04038

Property: The lot is identified as Tax Map 66, Lot 8-4, and is located at 126 Mighty Street

Consultant: Peter Delfonso, P.E., Delfonso Engineering

Project Description: The applicant is requesting approval to construct a 466 foot private way to the 2-6 lot gravel private way standard, located off Mighty Street to serve three (3) lots. The lot is identified as Tax Map 8, Lot 4, and is located in the Rural zoning district.

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

Zoning: Rural (R)

Variances: None requested.

Waivers: None requested.

Pursuant to the Application:

A private way review was held on December 4, 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:

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

| |
|--|
| Sheet C-001 – Title Sheet; Dated 06/15/2023; Revised through 10/26/2023; Received 10/31/2023 |
| Sheet C-100 - Private Way Plan; Dated 06/15/2023; Revised through 10/26/2026; Received 10/31/2023 |
| Sheet C-101 - Plan and Profile; Dated 06/15/2023; Revised through 10/26/2023; Received 10/31/2023 |
| Sheet C-300 – Erosion Control Details; Dated 06/15/2023; Revised through 10/26/2023; Received 10/31/2023 |

Other documents submitted consist of the following:

Private Way Application – 10/30/2023
Declaration of Maintenance – 10/30/2023
Planning Department – 11/27/2023
Street and Driveway Name Approval Form – 10/30/2023
Warranty Deed – Dated April 28, 2000; Received 10/30/2023
Fire Department – 11/16/2003
Assessor Comments - No comments
Code Department – No comments
Town Engineer – 11/28/2023
Town Stormwater – 11/16/2023

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.

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 Delfonso, P. E.

The Plan title block reads "Private Way Plan."

The Plan has an approval block that reads: "Private Way Amendment, Approved by 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., E., 3. The plan shows a grade at the intersection with Mighty Street of 3.75%, exceeding the allowed 2% grade per ordinance.

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 draft maintenance agreement for shared responsibility for maintenance between the three lots served by the private way has been provided.

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.

The applicant is proposing to build a 2 – 6 lot gravel private way. Sheet C-101 shows the required 2-6 lot/dwelling unit gravel private way standard cross section. The plan shows a grade at the intersection with Mighty Street of 3.75%, exceeding the allowed 2% grade per ordinance.

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 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 Mighty Street which is suitable to serve the proposed private way extension.

Finding: *The proposed private way will be off of Mighty Street 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 staff 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 Eric and Renee Begonia’s request for approval for a 466 foot private way off Mighty Street designed to the Town’s 2-6 lot/dwelling unit gravel private way standard, located on Map 66, Lot 8-4 and situated in the Rural 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 Eric and Renee Begonia’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 Eric and Renee Begonia’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.