

**Town of Gorham
 Planning Board Meeting
 February 5, 2024**

ITEM 3 - Discussion - Private Way - Cummings, Dakota - 59 Wood Road – a request for a private way to serve a single family house lot. M54 L16. Zoned R. The applicant is represented by Andrew Morrell, P.E., with BH2M.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application/Sketch (optional)		June 5, 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.

Vincent Grassi, Chair, Gorham Planning Board

1. OVERVIEW

This is the second time this application has come before the Planning Board. It was before the Board for sketch plan review in June, 2023.

The applicant proposes the construction of a one-lot private way in order to create a buildable lot for a single family home at the rear of Map 54 Lot 16. Map 54 Lot 16 currently has a single family home with 2 outbuildings.

The applicant is represented by Andrew Morrell, P.E. with BH2M.

2. ITEMS OF NOTE

Below are topics the Planning Board may want to discuss with the applicant. The discussion topics are written as a guide for the Planning Board. It should be noted that the discussion topics are noncommittal and all decisions on relevant discussion topics are those of the Planning Board.

Site Conditions

- An existing shed was located approximately 5 feet from the right-of-way boundary for the proposed private way. It has now been relocated 23 feet from the property boundary, which meets the required 20-foot side setback.

Zoning

- The site is zoned as Rural, and this zoning is consistent with the future land use plan from the town's Comprehensive Plan
- The zoning allows for single family residential development.
- The proposed private way and lot split create the necessary frontage and allows for the proposed lot to meet standards for the rural zoning district.
- Chapter 2: General Standards of Performance, Section 2-5 "Minimum Standards for the Design and Construction of Streets and Ways" will apply.

Historic Preservation & Natural Resource Protection

The Town of Gorham GIS map and the State Beginning with Habitat maps both show that the site does not contain any rare wildlife, plant communities, or other critical habitat. They also do not indicate the presence of wetlands or vernal pools.

Other items

- The applicant has only listed one name on the Street and Driveways Name Approval Form. The form requires that 3 names be listed.
- The Gorham Public Works director has suggested that the length of the culvert at the intersection with Wood Road should be a single section of 50 foot pipe instead of a 44 foot pipe with 4 foot section added. Additionally, the front right of way should be ditched.

3. AERIAL PHOTOGRAPH

Economic Development Division: No comments.

Fire Department: 05/19/2023, 01/22/2024

05/19/2023

59 Wood Road Private way Dakota Cummings

I have reviewed the plans (May 15, 2023) and have the list of comments below

1. The building will meet all applicable sections of NFPA 1 *Fire Code* and NFPA 101 *Life Safety Code*. Building plans shall be submitted to the Fire Inspector for review.
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 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. **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.**

01/22/2024

Map 54 Lot 16

I have reviewed the submitted plans stamped Dated 1-16-2024

All my requirements have been met.

Planning Division: 01/25/2024

- The applicant should be advised that the private way standards are based on the number of dwelling units. Therefore, the one-lot standard would not permit future development of an accessory dwelling unit on the parcel to be created.

Police Department: No comments.

Public Works Department: 01/24/2024

The entrance pipe is listed at 44ft,that being said there will be a 4ft section added somewhere to this pipe. I would like to see this be a 50ft pipe,small sections depending on how they are installed can be problematic.All the frontage shall be ditched during construction.

Stormwater Compliance: 01/23/2024

Stormwater comments for this project are as follows:

1. 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.
2. 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.

Thank you,
Ethan Moskowitz
Stormwater Compliance Officer/ GIS Technician

Town Engineer: 01/29/2024

Good Afternoon, Laura.

No comments from Engineering/Facilities.

Thank You,

Chuck
Charles E. Norton, P.E.

Recreation Department: No comments.

Abutter Comments: No comments.

Dakota Cummings
59 Wood Road Private Way
M54/L16

**TOWN OF GORHAM PLANNING BOARD
FINDINGS OF FACT
FOR
DAKOTA CUMMINGS - 59 WOOD ROAD PRIVATE WAY**

February 5, 2024

Applicant/Property Owner: The applicant/owner is Dakota Cummings, P.O Box 981 Windham, ME 04062

Property: The lot is identified as Tax Map 54, Lot 16, and is located at 59 Wood Road.

Consultant: Andy Morrill, P.E., BH2M

Project Description: The applicant is requesting approval to construct a 447 foot private way to the 1 lot gravel private way standard, located off Wood Road to serve one (1) lot. The lot is identified as Tax Map 54, Lot 16, 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:

Sketch Plan Review for the proposal was held on June 5, 2023. A private way review was held on February 5, 2024.

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:

BH2M Engineering plans (the plans) for a private way, prepared by Andy Morrill, P.E., consist of the following:

Sheet 1– Plan of Private Way; Dated 05/15/2023; Revised through 01/16/2024; Received 01/16/2024
Sheet 2 – Erosion Control Details; Dated 05/15/2023; Revised through 01/16/2024; Received 01/16/2024
Sheet 3 – Standard Details; Dated 05/15/2023; Revised through 01/16/2024; Received 01/16/2024

Other documents submitted consist of the following:

Private Way Application – 01/12/2024
Declaration of Maintenance – 01/12/2024
Planning Department – 01/25/2024
Street and Driveway Name Approval Form – 01/16/2024
Purchase and Sale Agreement – Dated January 13, 2023
Fire Department – 05/19/2023
Assessor Comments - No comments
Code Department – 01/29/2024
Town Engineer – 01/29/2024
Town Stormwater – 01/23/2024
Public Works Director – 01/24/2024

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) The lot having access from the approved private way may be improved with no more than one 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 1 lot or dwelling unit.

Finding: The private way is designed to the 1 lot/dwelling units private way standard and no more than one dwelling unit 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 Andy Morrill, P. E.

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

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.

This standard does not apply. A draft maintenance agreement has been provided but is not relevant to this 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.

The applicant is proposing to build a 1 lot gravel private way. Sheet 1 shows the required 1 lot/dwelling unit gravel private way standard cross section. The plan shows a grade at the intersection with Wood Road of -2.00%, meeting 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 one (1) lot. The applicant proposes to serve one (1) residential dwelling unit.

Finding: *The private way is proposing to serve one (1) 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).

The lot will need to retain enough area to meet the lot size 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 Wood Road which is suitable to serve the proposed private way extension.

Finding: *The proposed private way will be off of Wood 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 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 Chair 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 Dakota Cummings request for approval for a 447 foot private way off Mighty Street designed to the Town's 1 lot/dwelling unit gravel private way standard, located on Map 54, Lot 16 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 Dakota Cummings request for approval for a 447 foot private way off Mighty Street pending responses to remaining issues (and finalizing revisions to the plan).

OR

TO CONSENT AGENDA:

Dakota Cummings
59 Wood Road Private Way
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Move further review of Dakota Cummings request for approval for a 447 foot private way off Mighty Street to a future Consent Agenda pending the submission of revised information addressing outstanding staff and Planning Board comments.