

**Town of Gorham
Planning Board Meeting
May 3, 2021**

ITEM 5 – Subdivision Amendment – **Jonathan Sturgis – Lombard Estates** - a request for approval of a subdivision amendment to allow an additional lot on William Henry Drive. The property totals approximately 4.6 acres and currently contains wetland and a recreational trail easement. The lot is zoned Urban Residential (UR). The lot is shown on Map 20, Lot 5-49. The applicant/owner is Jonathan Sturgis. The applicant is represented by Andrew Morrell, P.E. of BH2M.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-application Discussion		February 1, 2021
Subdivision Amendment Review		May 3, 2021

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, Chairwoman, Gorham Planning Board

Jonathan Sturgis – Lombard Estates Phase II Subdivision Amendment

1. OVERVIEW

This is the second time this project has come before the Planning Board. The applicant had a sketch plan review meeting with the Planning Board on February 1, 2021. Minutes from that meeting are at pages 9-10.

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

2. ITEMS OF NOTE

- a. The applicant proposes to subdivide one lot into two lots. The original lot would be 89,991 sq. ft. and the out sale lot “A” would be 104,121 sq. ft.
- b. Recreational and Open Space as well as Middle School Impact Fees apply to this project.
- c. The applicant needs to provide an ability-to-serve letter from the Portland Water District.
- d. Request for waiver of nitrate analysis, since the lot will be served by public water.
- e. Public Works has stated that re-ditching needs to occur along the frontage during the dwelling construction.

3. STAFF REVIEWS

Planning Department: No comments

Assessing Department: No comments

Code Department: No comments

Fire Department: April 5, 2021

I have reviewed the submitted plans for 28 William Henry Drive – Lot Split dated March 30, 2021 and have the listed comments below.

1. The building will meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1. All buildings shall be properly numbered in accordance with E911 standards including height, color and location.
2. The building 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.

Police Department: No comments

Public Works Department: April 14, 2021

I would like to add a condition of approval to include reditching the frontage of the new lot when the lot is developed. I believe this is allowed under the land use code.

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Terry Deering, Deputy Director

Stormwater Comments – April 13, 2021

Over 1 acre but just outside the MS4 Urbanized Zone. No additional comments for stormwater/erosion.

Matt LaCroix, Stormwater Compliance Officer

Woodard & Curran: No comments

**PLANNING BOARD
FINAL SUBDIVISION AND SITE PLAN REVIEW
AND FINDINGS OF FACT
For
JONATHAN STURGIS – LOMBARD ESTATES PHASE II SUBDIVISION
AMENDMENT**

May 3, 2021

Applicant: Jonathan Sturgis, 28 William Henry Drive, Gorham, ME 04038

Property Owner: Jonathan Sturgis, 28 William Henry Drive, Gorham, ME 04038

Property: The lot is identified as Tax Map 20, Lot 5-049, and is located on William Henry Drive.

Consultants: Andrew Morrell, P.E., # 13285, with BH2M and Robert Libby, PLS #2190.

Project Description: The applicant proposes to subdivide one lot into two lots. The original lot would be 89,991 sq. ft. and the out sale lot “A” would be 104,121 sq. ft.

The units will be served by the existing overhead utilities from William Henry Drive.

Site Description: The property totals approximately 4.6 acres and currently contains a single family home. There is a forested wetland and a 15 ft. recreational trail easement on the property.

Applicability: Subdivision regulations identify the Planning Board as having review and approval authority.

Zoning: Urban Residential (UR) District, Section 1-6, B. Permitted Uses, 1) One or two-family dwellings 1) Any building or use identified as a permitted use in the Urban Residential District under Section 1-6, Subsection B of this Chapter.

Variances requested: None

Waiver granted: From the submission requirement Chapter 3, Section 3, B. 11) for a Class A High Intensity Soil Survey and replace it with a Class B High Intensity Soil Survey.

Waiver requested: Ch. 3 Section 3-3, B. 11 & 12 Nitrate Analysis because the proposed lot will be served by public water.

SUGGESTED MOTION FOR WAIVER REQUEST:

Move to grant Jonathan Sturgis request to waive the submission requirement under Ch. 3 Section 3-3, B. 11 & 12 Nitrate Analysis.

Pursuant to the Application:

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A Sketch Plan Review and discussion was held on February 1, 2021.
Subdivision Amendment Review were held on May 3, 2021.

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 plans consist of the following:

Sheet 1 – Amended Subdivision Plan #2 – 03/03/21 Sheet 2 – Erosion Control Details – 03/03/21
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Other documents submitted consist of the following:

Sketch Plan Submission – 12/18/21
Plans – 12/18/21
Gorham Town Planner Comments – 04/26/21
Gorham Assessor Comments – No comments
Gorham Fire Chief Comments – 04/06/21
Gorham Public Works Director Comments – 04/14/21
Gorham Stormwater Compliance – 04/13/21
Gorham Code Enforcement Officer – No comments
Woodard & Curran – No comments

CHAPTER 3 - SUBDIVISION, SECTION 3 - PRELIMINARY PLAN

The Planning Board, following review of the Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter 3, Subdivision, Section 3 – C. Preliminary Plan Review.

C. PRELIMINARY PLAN REVIEW

- 2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:
 - a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter 2.

The applicant is required to obtain all local, state, and federal permits needed for the proposed development.

The Comprehensive Plan identifies this area as Village Residential. The allowed uses in the Village Residential area should include a wide range of residential including single family homes.

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Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 conforms to the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.*

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

Access to this section of Lombard Estates Phase II Amended Subdivision Plan #2 is via William Henry Drive, which meets the Town's road standards.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.*

- c) Will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

The additional single family dwelling unit will be served by overhead power, telephone, and cable lines as stated in the application. The Town has anticipated growth within the Comprehensive Plan and has the ability to provide additional services to this additional lot.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.*

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.

The additional single family dwelling unit will be served by the water main extended from the Portland Water District's water main located in William Henry Drive right-of-way.

The applicant shall provide an ability-to-serve letter from the Portland Water District prior to receiving building permit approval.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 provide for adequate water supply for present and future needs.*

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The single family dwelling unit will be served by private onsite septic system.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.*

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- f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

Re-ditching of the frontage of the new lot “A” shall be done during the single family dwelling construction phase.

Stormwater from the site will be treated in stormwater infrastructure meeting the Maine Department of Environmental Protection’s and the Town of Gorham’s storm water requirements. The single family dwelling unit will be served by private onsite septic system.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

- g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

The proposed construction of the single family dwelling unit will not impact wetlands or waterbodies. Sheet 2 describes the method of erosion control.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

- h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

The proposed construction of the single family dwelling unit will not impact wetlands or waterbodies.

Sheet 2 describes the stormwater infrastructure for the house site and it is designed in accordance with state, Federal, and local requirements.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

- i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

The proposed construction of the single family dwelling unit and driveway will not impact wetlands or waterbodies. The layout of the buildings and driveway will remove canopy trees and understory features on the site.

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Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will respectfully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.*

- j) Financial Capacity to meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.

The applicant intends to sell the newly created lot. Although the applicant will not be constructing the dwelling unit or driveway, he is responsible for adherence to the approved plan.

Finding: *The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards for the development.*

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to meet the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter 8.

The applicant or new property owner will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of a building permit.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will be responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.*

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
- a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
 - b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The current parcel provides access to the trail network. The trail easement and connection is shown on the plan, Sheet 1.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will have common space within the subdivision in accordance with the Planning Board requirements and the condominium association shall be required to provide for the perpetual care of commonly owned land.*

CHAPTER 3 - SUBDIVISION, SECTION 4 –FINAL PLAN REVIEW

C. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

Finding: The applicant is requesting final plan amendment approval.

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval.

Finding: The final plan amendment was submitted in accordance with this Chapter.

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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
3. That an ability-to-serve letter for water shall be submitted prior to a building permit being issued.
4. Re-ditching of the frontage of the new lot “A” shall be included during the single family dwelling construction phase.
5. That prior to the 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;
6. That all homes are to be sprinkled meeting all applicable section of the Town Fire Suppression Ordinance and a set of sprinkler plans shall be submitted to the Fire Department at least two weeks prior to the start of installation of the system for permitting and review;
7. That the buildings will meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1;
8. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
9. That the subdivision plans shall not be released for recording at the Cumberland County Registry of Deeds until the required performance guarantee has been posted meeting the

Jonathan Sturgis – Lombard Estates Phase II Subdivision Amendment

approval of Town Staff; and the subdivision plan and private way plans is required to be recorded within one year of original approval or the approval becomes null and void; and

10. That once the subdivision plans have been recorded at the Cumberland County Registry of Deeds, a dated copy of the recorded subdivision plan shall be returned to the Town Planner prior to a pre-construction meeting being held.

SUGGESTED MOTIONS:

FINAL SUBDIVISION AMENDMENT APPROVAL:

Move to grant Jonathan Sturgis’ request for final subdivision amendment approval for a lot division located on 4.45 acres on William Henry Drive on Map 20 Lot 5-049 in the Urban Residential (UR) zoning districts, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and modified and conditioned by the Planning Board).

TO POSTPONE APPROVAL:

Move to postpone further review of Jonathan Sturgis’ request for final subdivision amendment approval pending responses to remaining issues (and revisions to the plans).

TOWN OF GORHAM
PLANNING BOARD FEBRUARY 1, 2021 MEETING MINURES

For Reference Only

ITEM 2 Sketch Plan – Subdivision Amendment – Lombard Estates – William Henry Drive – Jonathan Sturgis – request for approval to subdivide on lot into two lots, zoned UR, Map 20, Lot 5-49

Ms. Eyerman said this a two-lot subdivision amendment. Public sewer is located 400 feet from the existing house, and it would be about 500 feet to get public sewer to what would be the additional lot. The Frazier Trail runs through the middle of this parcel, and the applicant intends to work with the Land Trust to move the Trail and easement. She said that the Fire Department will require that the sprinkler ordinance be followed. Ms. Eyerman said the applicant has requested a waiver from the Class A High Intensity Soil Survey.

Andrew Morrell, BH2M Engineers, introduced the applicant Jonathan Sturgis. Mr. Morrell explained that Lombard Estates was approved in 1978 and the applicant’s home was built in 1996. The applicant is seeking approval to split his lot into two, one lot to have the existing residence, and one new proposed lot of 51,000 square feet at the intersection of Lucina Terrace and William Henry Drive. Wetlands delineation have been done and septic test pit results show there is adequate septic. Mr. Morrell said there is an existing gravity sewer from Route 202, which ends short of this existing home. The gravity sewer was ended at that location because there was not enough cover to continue it, so the ability to extend via gravity down William Henry does not exist. Mr. Morrell said the options for the new proposed lot is either subsurface wastewater disposal or a pressure sewer system and a grinder pump. The existing home currently has a pressure sewer system and grinder pump, and all of the other lots within Lombard Estates are on subsurface wastewater disposal systems.

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Mr. Morrel said that the sewer impacts will determine how the applicant proceeds with the project. The undue hardship of the ordinance requires the applicant to provide cost information on the installation of subsurface wastewater disposal system, which is \$10,000 for this lot. The cost of installing a pressure sewer system is \$56,000 for this lot. To determine undue hardship, a value must be assumed for the structure on site, and if the sewer cost is greater than 15% of that value, an undue hardship can be considered to extend the sewer. Mr. Morrell said the value of the structure can be assumed at \$250,000, and 15% of that is \$37,500, with pressure sewer costs some \$20,000 above that.

In addition, Mr. Morrell said the applicant is looking for a waiver of the Class A High Intensity Soil Survey, but understands that will depend on the Board's decision about the sewer.

PUBLIC COMMENT PERIOD OPENED: None offered
PUBLIC COMMENT PERIOD ENDED

Mr. Fox confirmed with Mr. Morrell that the potential cost of sewer will determine the viability of the application. In reply to Mr. Fox, Mr. Poirier said there is nothing in the Ordinance that dictates what figure should be used for the installation of sewage disposal on sites. The last numbers seen by the Board were recommended by the Code Enforcement Officer on another project. Ms. Butler-Bailey asked for a breakdown of the costs provided; Mr. Morrell said the applicant provided two estimates for two septic system designs, one was \$10,000 and one was \$8,500.

Mr. Firmin noted that he works for the Portland Water District but is not offering any comments in that capacity relative to sewer. He said his concern is that a septic system or leach field is expected to last 12 or 15 years and a typical sewer might last 50 years. He said he does not believe that pressure systems are ideal and a septic system will be fine in this case, and it looks as though there is room on this lot to replace it in the future. He does not believe a sewer extension is required.

Mr. Grassi said he agrees with Mr. Firmin and said he believes it would be a significant hardship in extending the sewer. Mr. Fox said in this instance a single lot is under discussion, surrounded by houses that have septic systems in place, so forcing the applicant to spend \$50,000 to run sewer to a single lot seems to have little value. Ms. Durst commented that the assumed cost of \$250,000 for the structure is considerably below the median price in Gorham of \$335,000.

James Anderson MOVED and Thomas Hughes SECONDED a motion to allow the applicant to install a subsurface wastewater disposal system versus extending public sewer to his lot. Motion CARRIED, 7 ayes.

Mr. Fox referred to the applicant's request to waive the Class A High Intensity Soil Survey, noting that a nitrate plume analysis would be required for the wastewater disposal system and that it would be unlikely for the Board to waive that requirement. Mr. Fox confirmed with Mr. Morrell that the applicant will follow the sprinkler requirements for the property. In addition, the applicant will work on relocating the Frazier Trail on the property.