

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

ITEM 6 - Public Hearing – Special Exception – Katelyn Cain – a request for special exception to locate a daycare center at 249 County Road. Zoned R, Map 15, Lot 25. The applicant is represented by Patrick Donahue.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Special Exception 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 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.

James Anderson, Chair, Gorham Planning Board

1. OVERVIEW

The applicant is requesting special exception review to increase the size of a daycare center located at 249 County Rd. The facility is currently part of a single family home and currently is permitted to host 12 children.

The expansion would increase the number of children to 20. The applicant intends to hire one additional employee.

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.

- Parking
 - The applicant has stated in a phone conversation with Town Staff on 3/2/23 that the number of parking spaces provided on site, specifically for the day care center, is 2, which meets the requirements in the town ordinances.
 - The applicant has indicated they have stacking for 12 cars at drop off which meets the need generated based on the drop off schedule provided.
- The applicant should have provided information about the ability of the septic system to meet the additional flow generated by the expansion of the center in a call with Town Staff on 3/2/23 as follows:
 - “No additional bathroom is to be constructed. The majority of the children served are in diapers, and will not generate additional septic flow. A dumpster is provided for solid waste generated”.
- Minor Site Plan review will be required because this is a conversion of a residential structure “in part” to a non-residential use, as specified in Section 4-3, subsection A.1.g of the Site Plan Review ordinance. The change in use is to a “Day Care Center”, as defined in Section 1-5 Definitions as “A home or other facility used generally to provide day care services or baby-sitting services for thirteen (13) or more persons.”

Zoning:

The zoning is currently Rural (R), which allows for a “Day Care Center” as a special exception. The standards are below in the “Findings of Fact” section.

3. AERIAL PHOTOGRAPH

Staff has included an aerial photograph for the Planning Board’s review of the project. The aerial photograph is from the town’s public map viewer.

Town of Gorham Public Map Viewer



4. STAFF REVIEWS

Assessing Department: No Comments

Code Department: No Comments

Fire Department: 02/22/2023 (Comments provided at project review meeting)

The applicant will need to work with the State Fire Marshall to for approvals. The applicant has stated that this is currently in-progress.

Planning Department: 02/27/2023

The applicant appears to meet all the requirements specified in the special exception standards. The following items should be noted:

- Parking & Traffic
 - Requirements
 - The town’s land use code does not list a specific parking requirement for “Day Care Centers”.

- For Nursery Schools, the ordinance requirement (Section 2.2, subsection A.2) is 1 space for each 2 rooms used as nursery rooms. The applicant meets this requirement.
- The Institute of Transportation Engineer’s Parking Generation Manual lists a rate of 0.24 spaces per student under “Day Care Center, Land Use Code 565”. Based on attendance of 20 children, this yields a requirement for 5 parking spaces.
- Provisions
 - The applicant has provided information regarding trip generation with the expanded number of children on-site. It is estimated that 8 vehicles will arrive from 730a-8a, 8 vehicles 8a-830a, and 5 vehicles at 830a and a similar breakdown for pick-ups at 4p, 430p, and 5p.
 - The site has a long driveway with a circle at the end allowing for stacking of at least 12 vehicles during drop-off and pickup.
 - The applicant has stated they are willing to work with public works to install signage along County road to increase safety for vehicles entering and exiting the site.
 - The site is over 200 feet from County Road, minimizing hazards to children on site.

Police Department: No Comments

Public Works Department: No Comments

**PLANNING BOARD
SPECIAL EXCEPTION REVIEW
AND FINDINGS OF FACT
For
KATELYN CAIN – 249 COUNTY ROAD**

March 6, 2023

Applicant/ Property Owner: The applicant/property owner is Katelyn Cain, 249 County Road, Gorham, ME 04038.

Property: The lot is identified as Tax Map 15, Lot 25, and is located at 249 County Road.

Consultants: None

Project Description: The applicant is proposing to expand the existing daycare, permitted for 12 children, with an increase to 20 children.

Site Description: The lot is 131,551 square feet in size and is currently a 12-child day care as an accessory use to a single family home.

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

Zoning: Roadside Commercial

Variances: None requested.

Waivers: None requested.

Pursuant to the Application:

Special Exception Review was held on 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:

Sheet 1 of 1 – Site Plan: Received, 01/27/2023
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Documents submitted consist of the following:

Special Exception Application – 01/31/2023, revised through 02/24/2023
Special Exception Standards, Response –
Gorham Town Planner Comments – 03/02/2023
Gorham Assessor Comments – No Comments

Gorham Fire Chief Comments – 02/22/2023
Gorham Public Works Director Comments – No Comments
Gorham Code Enforcement Officer – No Comments

FINDINGS OF FACT

Chapter 1 Section 1-6 E. SPECIAL EXCEPTION STANDARDS

The Planning Board shall have the power and duty to approve, deny, or approve with conditions special exceptions only as expressly provided in the applicable zoning districts. The applicant shall have the burden of proving that his/her application is in compliance with the following standards. After the submission of a complete application, the Planning Board shall approve a special exception application or approve it with conditions only if it makes a positive finding based on the information presented that the proposed use, with any conditions attached, meets the following standards:

1. The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site, serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, and the visibility afforded to pedestrians and the operators of motor vehicles on such roads;

Applicant response “Yes, during the morning drop off and pick up traffic will increase but should not cause any concerns”

Finding: The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic.

2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results;

The applicant has stated that the day care center does not propose to cause water pollution, sedimentation, erosion, or contaminate or reduce the ability of the land to hold water.

Finding: The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results.

3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;

The applicant has stated that the day care center does not propose to produce dust, smoke or odors.

Finding: The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants.

4. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties;

The applicant has stated that the day care center does not propose to create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties. They will adhere to the noise ordinance standards.

Finding: The proposed building and use will not create nuisances to neighboring properties.

5. The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use;

The applicant has stated that the day care center will dispose of waste materials with a commercial trash pickup service and a dumpster is provided as part of the original site plan approval.

Finding: The proposed waste disposal systems are adequate.

6. The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shoreland vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty.

The applicant has stated that the day care center and site itself is not located near spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, is not located in a shoreland zone.

Finding: The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shoreland vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty.

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 or Site Plan Review Committee, except for minor changes which the Town Planner may approve.
2. That prior to the commencement of construction of the site plan, the applicant is responsible for obtaining all required local, state and federal permits, including minor site plan review;
3. Any staff and peer review comments shall be addressed prior to the Board signing the decision document;

4. That all relevant conditions of approval from past Site Plan approvals shall remain in effect;
5. That any proposed use on the site shall meet the sound level requirements outlined under Chapter 4, Section 9, T. Noise;
6. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
7. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
8. That Decision Document shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the or issuance of a final Certificate of Occupancy.

SUGGESTED MOTIONS:

FOR SPECIAL EXECPTION APPROVAL:

Move to grant The Wiggle Room’s request for special exception approval for 249 County Road, located on Map 15, Lot 25 in Rural zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and amended by the Planning Board).

Move to table The Wiggle Room’s request for special exception approval for 249 County Road, located on Map 15, Lot 25 in Rural zoning district pending additional information as requested by the Planning Board.