

Town of Gorham Planning Board Meeting January 3, 2022

ITEM 7 - Private Way: Grant & David Gushee are requesting approval of a 875foot long private way built to the 2-6 lot gravel private way standard to serve 2 lots. The property is located off Line Road and Ira Drive on Map 75 Lots 2 and 2-4 in the Suburban Residential and Manufactured Housing Overlay Zoning district. The applicant’s agent is Jon Whitten, Jr. P.E. of Haley Ward, Inc.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application (optional)		None held
Private Way Review		January 3, 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

1. OVERVIEW

This is the first time the application has come before the Planning Board for review. The applicant is represented by Jon Whitten, Jr. P.E. of Haley Ward, Inc.

There are four (4) lots currently shown on the plan.

2. WAIVER REQUEST

No waivers requested.

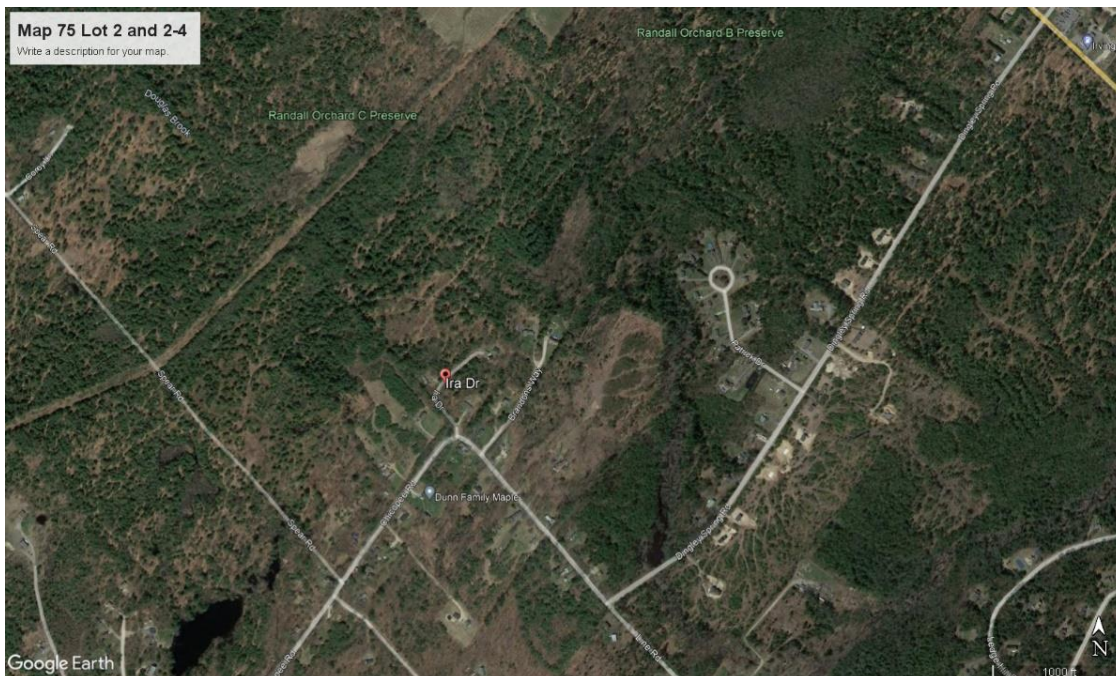
3. ITEMS OF NOTE

- A. The applicant is proposing to extend a 2 – 6 lot gravel private way. Sheet C501 shall show the required 2-6 lot/dwelling unit gravel private way standard cross section.
- B. The road is owned by the Gushee's. Therefore, they are completely responsible for the maintenance and upkeep. The Board may want to discuss a waiver from the maintenance agreement requirement because the owners own the road and have the responsibility for the maintenance and upkeep in accordance with town standards.

Suggested motion:

Move to waive the requirement for a maintenance agreement in Subsection H.3 Standards for Private Ways.

- C. Google Earth image as of May 2018



4. PEER AND STAFF REVIEWS

Planning Department: 12/28/2021

December 28, 2021

- The lot sizes of each lot needs to be shown on the plan.
- The cross section of the road needs to match the town's 2-6 gravel private road standard.

Assessing Department: 12/21/2021

December 21, 2021

no comment

Code Department: no comments received

Fire Department: 12/27/2021

December 27, 2021

I have reviewed the Plans dated December 13, 2021 for a new Private Way

1. All 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 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. The hammer head width needs to be 20' wide and 50' deep. Please show measurements on the plans. No driveways will be allowed off the Hammer Head. Please show driveway's on future plans.
5. A "No Parking - Tow Away Zone" or "No Parking - Fire Lane" sign shall be added to the hammer head.
6. Street names need to be approved by Police and Fire Chief as well as be properly posted.

7. **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.** The current Ira Drive is in poor condition.
8. We may have more requirements as this progresses through the planning process.

Police Department: no comments received

Public Works Department: no comments received

Town Attorney: no comments received

Wright Pierce: 12/23/2021

December 23, 2021

As requested by the Town of Gorham, Wright-Pierce has reviewed the Private Way Application for the proposed Gushee Drive. A new Private Way, called Gushee Drive, is proposed off Ira Road and consists of approximately 875 feet of gravel roadway. The Applicant also proposes to raise and widen approximately 390 feet of Ira Road starting at its intersection with Line Road.

Documents Reviewed by Wright-Pierce

- Private Way Application with Supporting Documents - prepared by Haley Ward (December 13, 2021)
- Private Way Application - prepared by Haley Ward (December 15, 2021)
- Site Plan and Profile, Sheet C101, C201, and C501 - Prepared by Haley Ward (December 13, 2021)

Review Comments

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

General/Completeness

1. Please explain why two different Private Way Applications were submitted. The Private Way Application signed December 13, 2021, which includes the supporting documents, was assumed to be the applicable application.
2. An unexecuted Declaration of Maintenance of a Private Way form was submitted. The maintenance agreement to be finalized and recorded in the Cumberland County Registry of Deeds within 30 days of Planning Board approval.
3. The properties are located within the Suburban Residential-Manufactured Housing zone, as stated in the application and on the plans.
4. Deed, agent authorization, and proposed plans have been provided.
5. Project is not within an MS4 urbanized area and is under an acre; therefore, there are no MS4 requirements.
6. 24-inch by 36-inch 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
7. Wetland impacts are proposed. Town should verify that Maine Department of Environmental Protection (DEP) Natural Resource Protection Act (NRPA) and United States Army Corps of Engineers permitting requirements have been met.
8. There is an existing low spot at approximately Sta. 2+50 at elevation 328 feet that is proposed to be partially filled. Please comment on expected significance of this on the adjacent lot.
9. There is an unlabeled proposed contour at approximately Sta. 3+50 on C201 that should be labeled.
10. We recommend showing proposed grading along Ira Road and a typical cross section showing the raising and widening of the road.
11. The Town to confirm whether the Ira Road improvements can be part of this approval or whether a separate amendment is required.
12. The Applicant should comment as to why the right-of-way of Ira Road is not shown as extending the full length of the road on the plans.
13. There appears to be blue shading on the plans denoting the wetlands. Please note that only black and white plans can be registered at the Registry of Deeds.
14. It appears not all the Standard Private Way Plan Notes identified in the permit application are on the Private Way Plan. The private way plan should include all the Standard Private Way Plan Notes.

General Standards of Performance

1. Environmental
 - a. Given the proximity to wetlands, it is recommended that all proposed perimeter erosion controls adjacent to wetlands be a double row of silt fence.
 - b. According to our research, a portion of the lots are located within the 100-year floodplain, as defined by FEMA. However, the proposed work is not within the floodplain.
 - c. According to our research, a portion of the lots are located within the Shoreland Overlay District, as defined by Town maps. However, the proposed work is not within the Shoreland Overlay District.
 - d. Please provide comment on why riprap is proposed along the ditch on one side of the Private Way, but not the other. At a minimum, stone check dams should be proposed on the vegetated side for erosion control.
 - e. The proposed silt fence along Gushee Drive should be extended to connect to the silt fence at the end of the proposed turnaround at approximately Sta. 8+00 and continued around the end of Gushee Drive at Sta. 8+82.
 - f. Silt fence should be installed along the downslope of Ira Road. The roadway is proposed to be widened and raised 6 inches, which will require some ground disturbing activities.
 - g. An erosion control berm detail is included but erosion control berm is not shown on the plans.

Private Way Requirements

1. There are side slopes proposed that are steeper than the 3:1 and 2:1 maximum specified in the Town of Gorham's typical gravel private way cross section. In one location side slopes are 1.5:1 to avoid a rock wall. Town to provide comment on whether an exception will be made. Additionally, in

general, ditch slopes on the plans appear to vary. Applicant to make sure the typical ditch details and the typical roadway section accurately represent what is shown on the plans.

2. Provide comment on and ensure that the paved apron at the intersection with Ira Road meets the requirements of Paragraph H (4) of Section 2-5 of the Gorham Land Use Land Development Code. We recommend providing a paved apron detail that clearly shows these standards, as well.
3. The proposed Private Way meets the standards of Tables 2 and 3 and typical gravel private way cross section for 2-6 lots.
4. We recommend adding the ditch and right-of-way widths on the typical roadway cross section.
5. It appears that proposed monuments are shown on the plan, however they are not labeled or shown on a legend. Please specifically call them out on the plan and specify the type of monument proposed.

Monumentation must be 5-inch square and at least 4 feet long, consisting of granite or concrete. Refer to Paragraph 7 of Section 2-5 of the Gorham Land Use and Development Code.

**TOWN OF GORHAM PLANNING BOARD
FINDINGS OF FACT
FOR
GRANT & DAVID GUSHEE - PRIVATE WAY**

January 3, 2022

Applicant/Property Owner: The applicant/owner is Grant & David Gushee, 39A Spiller Rd, Gorham, ME 04038

Property: The lot is identified as Tax Map 75, Lots 2 & 2-4 and is located off Ira Drive and Line Road.

Consultant: Jon Whitten, Jr, P.E.of Haley Ward, Inc.

Project Description: The applicant is requesting approval to construct a 875 foot private way to the 2-6 lot gravel private way standard, located off Ira Drive and Line Road to serve four (4) lots. The lot is identified as Max Map 75, Lot 2 and 2-4 and is located in the Suburban Residential and Manufactured Housing Overlay zoning district.

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

Zoning: Suburban Residential and Manufactured Housing Overlay (SR/MH)

Variiances: None requested.

Waivers: None requested.

Pursuant to the Application:

A private way review was held on January 3, 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:

Haley Ward plans (the plans) for a private way, prepared by Jon Whitten, Jr., P.E., consist of the following:

Sheet C101 – Plan and Profile dated 12/13/21, received 12/13/21 Sheet C201 – Plan and Profile dated 12/31/21, received 12/13/21 Sheet C501 – Details dated 12/13/21, received 12/13/21
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Other documents submitted consist of the following:

Private Way Application – 12/13/2021, 12/15/2021
Plans – Received 12/13/2021
Declaration of Maintenance – Draft received 12/13/2021
Gorham Town Planner – 12/28/ 2021
Gorham Fire Department – 12/27/2021
Gorham Assessor Comments – 12/21/2021
Gorham Code Enforcement – no comments received
Gorham Public Works Director – no comments received
Town Attorney – no comments received
Gorham Police Department – no comments received
Wright Pierce – 12/23/2021

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 shall 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.

An application has been submitted for naming the road.

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 Jon H. Whitten, P.E.

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

The Plan has an approval block that reads: "Private Way, Approved by the 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 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 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.

The Board may want to discuss a waiver from this requirement because the owners own the road and have the responsibility for the maintenance and upkeep in accordance with town standards.

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 right of way width is 50 feet.

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 extend a 2 – 6 lot gravel private way. Sheet C501 shall show the required 2-6 lot/dwelling unit gravel private way standard cross section.

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 four (4) lots.

Finding: The private way is proposing to serve four (4) 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 shall retain enough area to meet the lot size standard 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 Ira Drive and Line Road which is suitable to serve the proposed private way extension.

Finding: The proposed private way will be off of Sebago Lake Road (Route 237) 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 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 Grant & David Gushee’s request for approval for an 875 foot private way designed to the Town’s 2-6 lot/dwelling unit gravel private way standard, located on Map 75, Lot 2 and 2-4 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

TO TABLE APPROVAL:

Move to table further review of Grant & David Gushee’s request for private way approval pending responses to remaining issues (and finalizing revisions to the plan).

OR

TO CONSENT AGENDA:

Move further review of Grant & David Gushee’s request for private way approval to a future Consent Agenda pending the submission of revised information addressing outstanding staff and Planning Board comments.