

**Town of Gorham
 Planning Board Meeting
 March 4, 2024**

ITEM B - Private Way Amendment – Gushee, Grant – Gushee Drive – a request to reduce depth of unimproved land behind an existing hammerhead. Map 75, Lot 2.004. Zoned SR-MH. The applicant is represented by David Gushee.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Planning Board Review		March 4, 2024

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 first time this application for a private way amendment has been before the Planning Board. The proposal is to reduce the area of the right of way for Gushee Drive, a 2-6 lot private way, in order to meet setback requirements to build a single-family home on 15 Gushee Drive, M75/L2-5.

This private way was originally approved by the Planning Board in January, 2022.

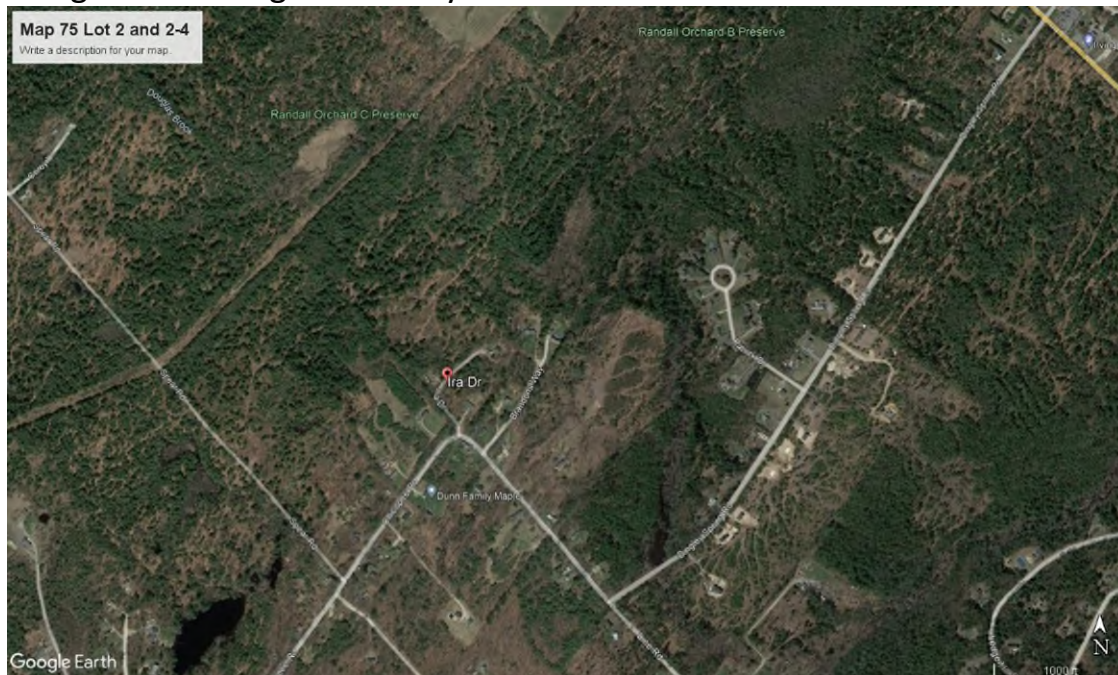
2. ITEMS OF NOTE

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.

- The applicant needs to meet a setback requirement of 50 feet from the right of way of the private way hammerhead to build a single-family home in their desired location. That location is currently approximately 35 feet from the hammerhead right of way.
- The proposed change to the hammerhead right of way would maintain sufficient road frontage for buildable single-family lots on the right of way. It meets the standards for provision of right-of-way for hammerheads as specified in Land Use and Development Code section 2-5, F, 4, 1.
- The amended plan needs to be stamped by an Engineer and Surveyor, and the signature block needs to read “Amended Plan of Private Way”.

3. AERIAL PHOTOGRAPH

Google Earth image as of May 2018



4. STAFF COMMENTS

Assessing Department: No comments.

Code Division: No comments.

Director of Community Development: No comments.

Economic Development Division: No comments.

Fire Department: No comments.

Planning Department: 2/22/2024

The proposed amendment to the private way meets all applicable standards.

The supplied plan showing the revision needs a stamp from the engineer and surveyor.

The signature block of the plan should read “Amended Plan of Private Way”.

Police Department: No comments.

Public Works Department: 02/15/2024

No issue with requested changes

Stormwater Compliance: 02/21/2024

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: 02/22/2024

No comments on this amendment.

-Chuck

Recreation Department: No comments.

Abutter Comments: No comments.

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

March 4, 2024

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

Property: The lot is identified as Tax Map 75, Lot 2-4.

Consultant/Agent: David Gushee, 39 Spiller Road Gorham, ME 04038.

Project Description: The applicant is requesting approval to amend the lot lines for the hammerhead of an existing 2-6 lot private way in order to meet the setback requirements to build a single family home on Map 75, lot 2-5.

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

Zoning: Suburban Residential – Manufactured Housing

Variances: None requested.

Waivers: None requested.

Pursuant to the Application:

Planning Board review of the requested was held on March 4, 2024.

The applicant has contracted with Jon Whitten, Jr. of Haley War to provide the following plans:

Amended Plan of Private Way; Dated 08/30/2021; Revised through 02/12/2024; Received 02/16/2024 Plan and Profile; Dated 12/13/2021; Revised through 02/14/2024; Received 02/14/2024

Other documents submitted consist of the following:

Private Way Application – 02/13/2024
Declaration of Maintenance – N/A
Planning Department – 02/22/2024
Street and Driveway Name Approval Form – N/A
Purchase and Sale Agreement – N/A
Fire Department – No comments

Assessor Comments - No comments
Code Department – No comments
Town Engineer – 02/22/2024
Town Stormwater – 02/21/2024
Public Works Director – 02/15/2024

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) 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.

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 Approval".

The Plan should have an approval block that reads: "Amended Plan Private Way, Reviewed and 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 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.

The Planning Board provided a waiver of this requirement at the time of the original approval of the private way in January, 2022.

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 amend the boundary line for a 2 – 6 lot gravel private way as shown in the document "Amended Plan of Private Way". No changes to the construction of the private way itself are being proposed.

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).

The lot will need to retain enough area to meet the lot size 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 Ira Drive 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. 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 peer reviewers shall be completed prior to Planning Board signature.
5. That all previous conditions of approval shall remain valid.
6. That at least one week prior to the construction of the house reconvening, 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.

7. That the Planning Board Chair is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
8. 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 final Certificate of Occupancy for the house.

SUGGESTED MOTIONS:

FOR APPROVAL: Move to grant Grant Gushee’s request for approval for an Amendment to a private way off Ira Lane, designed to the Town’s 2-6 lot/dwelling unit gravel private way standard, located on Map 75, Lot 2-5 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 CONSENT AGENDA: Move to postpone Grant Gushee’s request for approval for an Amendment to a private way off Ira Lane to a future Consent Agenda pending the submission of revised information addressing outstanding staff, peer review and Planning Board comments.