

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

ITEM 2 - Public Hearing – Special Exception - Seedlings to Sunflowers – a request for special exception to locate a daycare center and community café at 3 Industrial Parkway. Zoned RC, Map 12, Lot 26-7. The applicant is self-represented.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Special Exception Review		February 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 locate a daycare center and community café at 3 Industrial Parkway. The proposed facility would be located in a building that is currently under construction, and received Planning Board approval on December 5, 2005. A de minimis change to the plan regarding stormwater management was approved on February 21, 2021.

The proposed center would include six preschool classrooms, two of which would be in partnership with Gorham Public Schools to provide a public Pre-K program, before and after care, and other community support programs. The applicant has stated they will host up to 96 children, ages 3-5 years. Hours of operation would be 7am-530pm Monday-Friday. The applicant’s goal is to have classrooms in operation by September, 2023.

The applicant is self-represented.

This is the first time this matter has come before the Planning Board.

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 parcel is located in the Roadside Commercial (RC) zone. The plan set submitted incorrectly lists it as being located in the industrial zone.
- The proposed day care is located within the 750 foot school buffer of at least 3 cannabis-related businesses. Should existing businesses with cannabis licenses chose to transfer to a new entity or a new entity applies for cannabis licensing, they will be denied under State and Town licensing requirements.

Comprehensive Plan

- The parcel is located in the Roadside Commercial zone. The Future Plan Use Plan calls for Corridor Commercial zoning for this parcel.
- The allowed use in the Corridor Commercial Area should be similar to the current Roadside Commercial zone including retail, service, office, auto related, small light industrial (<10,000 square feet), and community uses as well as hotels, inns and B&Bs. Residential uses should be limited to existing single-family homes. New residential development should not be allowed in this designation.
- The Future Land Use Plan states “The existing residential uses should be subject to the standards of the Suburban Residential designation. The development standards should be somewhat similar to the current standards in the Roadside Commercial zone but should require improved site design. Buildings should be required to be setback between 25 and 90 feet from the road with not more than one double-loaded row of parking between the building and the street. A landscaped buffer strip at least 20 feet wide should be required along the street. Vehicular access to lots should be carefully managed. Access from side

streets rather than Route 25 should be required if feasible and driveways limited to one per 400 feet of road frontage. The use of shared driveways and interconnected parking should be required to minimize the number of curb cuts. In addition, there should be additional requirements in areas over a sand and gravel aquifer. These provisions should require a high level of stormwater management and careful handling and storage of potential groundwater contaminants.

Zoning and Subdivision

The zoning is currently Roadside Commercial (RC), which allows for a “Day Care Center” as a special exception. The standards are as follows:

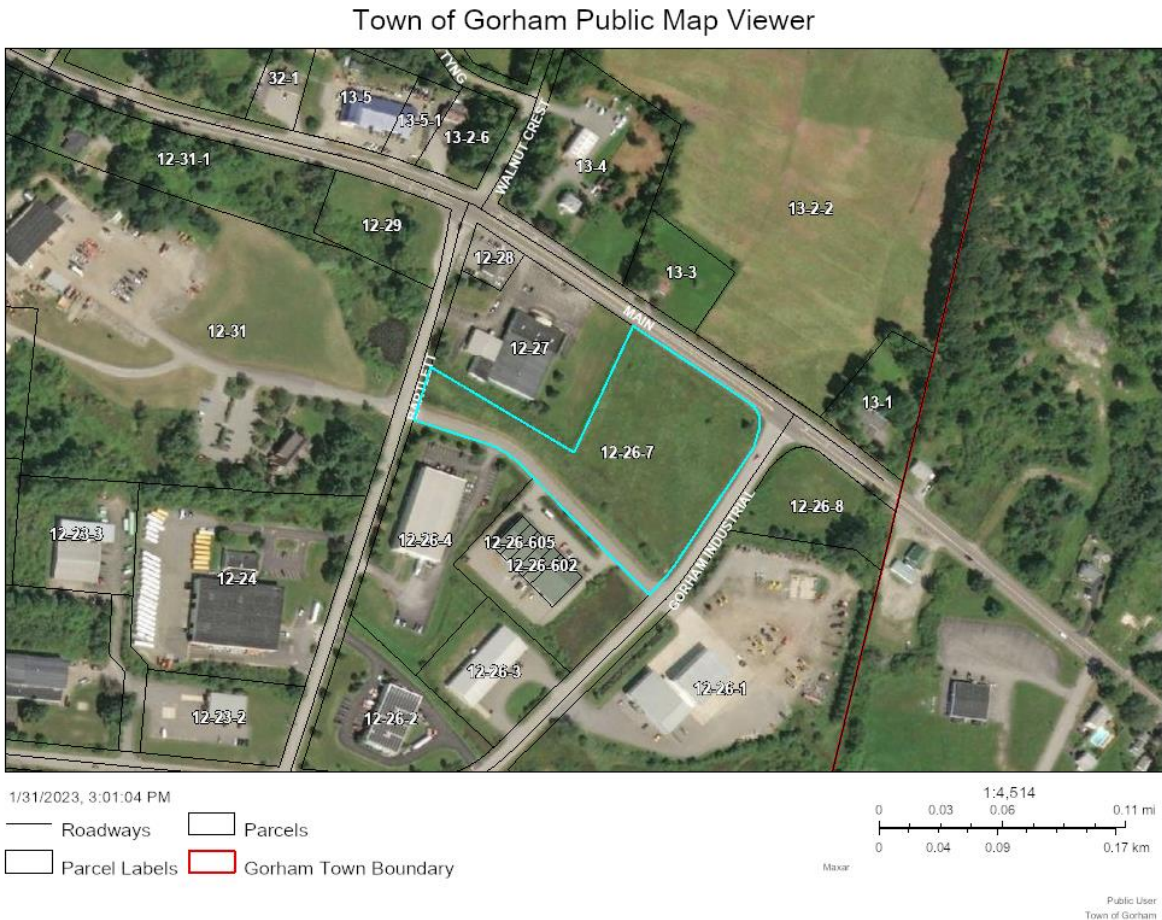
The Planning Board shall have the power and duty to approve, deny, or approve with conditions special exceptions only as expressly provided in the applicable zoning districts. The applicant shall have the burden of proving that his/her application is in compliance with the following standards. After 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;
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;
3. 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;
5. The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use;
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.

A special exception permit granted by the Planning Board will expire if the use does not commence within two years of the date of said approval. The Planning Board may extend such approval for one additional year upon the applicant’s written request submitted prior to the expiration of the initial two-year period provided the applicant demonstrates that said use cannot commence within the initial two-year period of time because other required permits have not been issued or the special exception approval was appealed. This provision shall not apply to mineral extraction uses, which shall be subject to the provisions of Chapter 2, Section 2-1 C(3)(b).

3. AERIAL PHOTOGRAPH

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



4. STAFF REVIEWS

Assessing Department: No comments

Code Department: Verbal comments received 02/02/2023

There are existing cannabis facilities within the 750 foot setback that is required by town ordinance. Should existing businesses with cannabis licenses chose to transfer to a new entity or a new entity applies for cannabis licensing, they will be denied under State and Town licensing requirements.

Fire Department: 01/26/2023

I have reviewed the submitted plans dated Stamped received Jan. 24, 2023

1. Plans Review for (Seedlings to Sunflowers) needs to be submitted to the State Fire Marshals for approvals. I require a Stamped (Each Page) approval set of plans submitted to this office before a Permit from the Town is issued. The original plans for this building was for 3 units that are classified as “Industrial/Storage” The change of use will be a day care center.
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. All buildings will meet all applicable sections of NFPA 1 *Fire Code* and NFPA 101 *Life Safety Code*.
4. Fire Alarm System installed per NFPA 72
5. Gas Detection installed on the Alarm System in Mechanical Room if Natural Gas is used.
6. Parking in the Location of the Fire Department Connection needs to be enforced “NO PARKING”
7. Natural Gas meters will need protection.

May have more requirements as this goes through the planning process.

Planning Department: 02/03/2023

Planning Department review focused on whether the proposal meets the special exception requirements in the zoning ordinance, as follows:

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:

This is a new currently under construction site with three access points onsite. Two leading to Industrial Park Way and one leading to the connector road between Bartlett Road and Industrial Park Way. The proposed use will not create or aggravate any of the hazards discussed.

Planning Dept. Comment: Sidewalks are planned to be constructed along Main St. Pedestrian circulation within the site and to the planned sidewalks should be considered.

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;

Applicant Response:

The approved site plan for this site contemplates all of these issues and this particular use does not cause any of the issues discussed.

Planning Dept. Comment: Agreed

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

Applicant Response:

The proposed use is a pre-school/daycare and will not create any of the conditions discussed.

Planning Dept. Comment: Agreed

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;

Applicant Response

The proposed use is a pre-school/daycare and will not create any of the nuisances discussed.

Planning Dept. Comment: Agreed, with the exception that noise from the facility may have adverse impacts on the residential properties located across Main St. from the facility.

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

Applicant Response

Waste will be disposed of in an onsite dumpster which will be emptied by RW Herrick as often as required.

Planning Dept. Comment: Agreed

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.

Applicant Response

The proposed use is a pre-school/daycare and will not result in any damage discussed.

Planning Dept. Comment: Agreed

Parking: The approved site plan notes a total requirement of 27 parking spaces (21 spaces to meet the needs for 20,040 sf of warehouse space @ 1 space per 1000 sf, and 6 spaces to meet the need for 1,560 sf of office area @ 1 space per 250 sf). **A total of 47 spaces are provided.**

The zoning code does not explicitly define the parking requirements for this type of facility. However, it does require “1 parking space per employee” plus 3 spaces for elementary schools and “1 parking space for each 2 rooms used as nursery rooms” for nursery schools.

The applicant has stated that they anticipate having 23 employees at the facility, which would require 26 spaces using the elementary school requirements.

It should also be noted that the Parking Generation Manual lists a rate of 0.24 spaces per student under “Day Care Center, Land Use Code 565”. Based on attendance of 96 children, this yields a requirement for 24 parking spaces.

Police Department: No comments

Public Works Department: No comments

Wright Pierce: 01/26/2023

As requested by the Town of Gorham, Wright-Pierce has reviewed the Special Exception submission for a daycare facility at 3 Industrial Parkway in Gorham. The 4.72-acre parcel (Tax Map 12, Lot 26-7) is within the Roadside Commercial District. The focus of the review was on the redline markups of the outside daycare play area.

Documents Reviewed by Wright-Pierce

- Special Exception Application for PreK Expansion and Community Cafe- prepared by Applicant (dated 1/10/2023)
- Grading and Utilities Plan (Sheet 3 of 6) of Lot 3 Gorham Industrial Park (revision B dated 9/1/2021) prepared by Sebago Technics with redline markup revisions of 3:1 slope and chainlink fence with gate. PDF file name: 21058.Outside Daycare Play Area.1-15-23.

Review Comments

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

General/Completeness

1. The grading for the flat spot to create a fenced in play area appears appropriate and should not cause any changes in stormwater. It should be noted that these changes do increase the amount of disturbed/developed area on site by approximately 3,800 square feet.
2. Erosion control blanket is recommended for the 3:1 slope.
3. There appears to be a revision set of plans (see revision B dated 9/1/2021 in the title block) that occurred between the Approved De Minimis Change dated 2/25/2021 and this submission. Was the 9/1/2021 plan approved by Planning Board or otherwise? If not, for clarity, all changes should be shown and identified on the current submission in red. Some of the discrepancies between the Approved De Minimis Change (2/25/2021) and the current submission include the dumpster pad and grading and configuration of the loading docks.

4. There appears to be conflicting proposed contours in the area east of the loading docks, which should be cleaned up. For example, the 97' and 98' contours on the western side of the loading docks and 12% paved ramp cross each other.

**PLANNING BOARD
SPECIAL EXCEPTION REVIEW
AND FINDINGS OF FACT
For
SEEDLINGS TO SUNFLOWERS – 3 INDUSTRIAL PARKWAY**

February 6, 2023

Applicant/ Property Owner: The applicant/property owner is JCS 5 LLC, 20 Mechanic Street, Gorham, ME 04038.

Property: The lot is identified as Tax Map 12, Lot 26-7, and is located at 3 Industrial Parkway.

Consultants: Owens McCullough, P.E., #7122, with Sebago Technics, Inc.

Project Description: The applicant is proposing a daycare, Pre-K rooms in partnership with Gorham Public Schools, meeting rooms, and a Community Café.

Site Description: The lot is 4.73 acres in size and is currently an open field with ongoing construction activity to construct a 21,600 sf building with associated driveway and parking as approved in December, 2005 and with De Minimis changes approved in February, 2021.

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 February 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:

Owens McCullough, PE of Sebago Technic’s Plans consist of the following:

Sheet 3 of 6 – Grading and Utilities Plan: Dated, 01/27/2021; Revised through, 09/01/2021; Received, 01/24/2023.
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Other documents submitted consist of the following:

Special Exception Application – 01/18/2023
Special Exception Standards, Response – 01/25/2023
Plans – 01/24/2023
Letter of Financial Capacity -
Gorham Town Planner Comments – 02/03/2023
Gorham Assessor Comments – No comments
Gorham Fire Chief Comments – 01/26/2023
Gorham Public Works Director Comments – No comments
Gorham Code Enforcement Officer – 02/02/2023
Wright Pierce – 01/26/2023

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;

The day care center will be located in a structure that already has site plan approval. In this case, sidewalks do not exist yet in this location. The lighting, drainage, and visibility has previously been reviewed and approved.

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 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 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 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 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 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;
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 Seedlings to Sunflower’s request for special exception approval for 3 Industrial Way, located on Map 12, Lot 26-7 in the Roadside Commercial zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and amended by the Planning Board).