

**Town of Gorham  
Planning Board Meeting  
January 3, 2022**

**ITEM 6 - Private Way:** Jonathan and Cynthia Smith are requesting approval of a 150 foot long private way built to the 2-6 lot gravel private way standard to serve 4 dwelling units. The property is located off Sebago Lake Road (Route 237) on Map 69 Lot 41-8 in the Rural Zoning district. The applicant’s agent is Owens McCollough, P.E., of Sebago Technics, Inc.

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**PROJECT TRACKING**

<b>DESCRIPTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Pre-Application (optional)		<b>None held</b>
Private Way Review		<b>January 3, 2022</b>
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 Owens McCollough, P.E., with Sebago Technics.

There are four (4) lots currently shown on the plan. The additional road frontage created for Jacob and Cassandra Smith has 290.62 feet of frontage and the lot created for Jonathan and Cynthia Smith has 168.57 feet. The required frontage is 200 feet.

**2. WAIVER REQUEST**

No waivers requested.

**3. ITEMS OF NOTE**

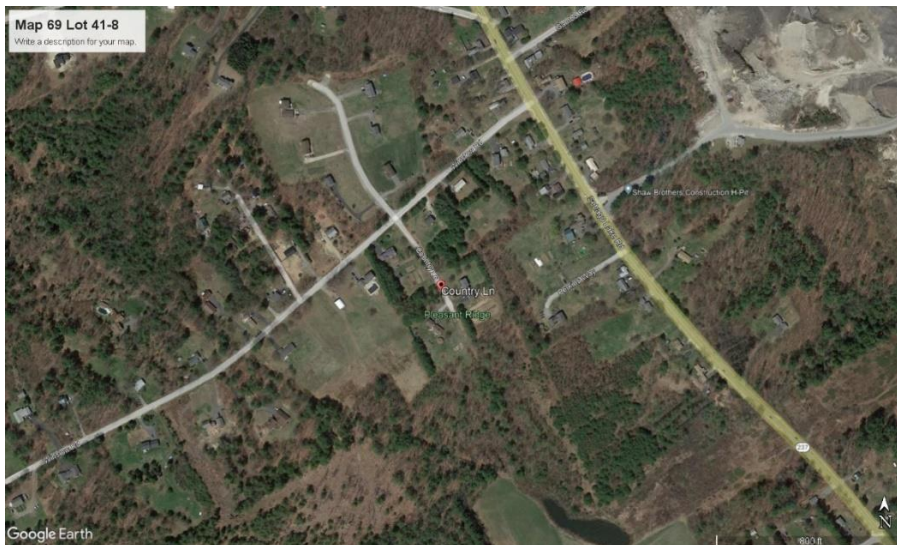
A. The additional road frontage created for Jacob and Cassandra Smith has 290.62 feet of frontage and the lot created for Jonathan and Cynthia Smith has 168.57 feet. The required frontage is 200 feet.

B. The road is owned by Jonathan and Cynthia Smith. 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 July 2019



#### 4. PEER AND STAFF REVIEWS

**Planning Department:** 12/28/2021

**December 28, 2021**

- Plan of Private Way - The plan shall be labeled "..., and the words, "Private Way, Approved by the Town of Gorham Planning Board."
- The lot sizes of each lot needs to be shown on the plan.
- The frontage for the second lot does not meet the Rural requirement of 200 feet.

**Assessing Department:** 12/13/2021

**December 13, 2021**

no comment

**Code Department:** no comments received

**Fire Department:** 12/15/2021, 12/21/2021

**December 15, 2021**

It appears all our concerns have been addressed on both of these projects. We will follow-up with a formal reply next week.

Stay safe,

Charles Jarrett, Fire Inspector

**December 21, 2021**

On behalf of Chief Fickett,

We have this comment on the following project;

- Country Lane Extension
- Past history has repeatedly shown that private ways/drives are very poorly maintained, and winter time 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.

Charles Jarrett, Fire Inspector

**Police Department:** no comments received

**Public Works Department:** no comments received

**Town Attorney:** no comments received

**Wright Pierce:** 12/22/2021

**December 22, 2021**

As requested by the Town of Gorham, Wright-Pierce has reviewed the Private Way Amendment Application for the proposed Country Lane Private Way. Country Lane was originally approved by the Town in 1986 and is approximately 700 feet in length with a hammerhead turn-a-round at the terminus. The existing right-of-way is owned by the applicants who also owns the abutting land where the proposed extension will occur. Country Lane is proposed to be extended by approximately 150 feet to accommodate one additional lot.

#### **Documents Reviewed by Wright-Pierce**

- Private Way Amendment Application Package prepared by Sebago Technics (December 3, 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. Site Plan Application was submitted and complete with the following required supporting attachments:
  - a. Deed
  - b. Agent authorization
  - c. Originally approved plan
  - d. Proposed amended plan with new signature block
  - e. Draft revised maintenance agreement
2. Project is not within the shoreland overlay district.
3. Confirmed that the project site is in the Rural zoning district.
4. Project is not within an MS4 urbanized area and is under an acre; therefore, there are no MS4 requirements.
5. 24"x36" 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). General Note 2 should be updated with the correct Lot number.
  - d. Date of plan preparation
6. Review Standard Private Way Plan Note #6 to correct typo and code reference.

## **General Standards of Performance**

### **Environmental**

1. The proposed silt fence on the eastern side of the site should be extended farther east and up to the northern end of the site. As it is proposed now, runoff from proposed ditch line would leave the site with no sediment control prior to discharging towards the wetlands. It is recommended that the silt fence follow the entire proposed tree line on this eastern side of the site, since it is downslope of proposed earthwork.
2. Given the proximity to wetlands, it is recommended that all proposed perimeter erosion controls adjacent to the wetlands be a double row of silt fence.
3. A stone check dam is also recommended within the ditch on the eastern side of the Private Way, similarly to the ditch line on the western side.
4. A FEMA map was not provided, but our research shows that the project is not within a floodplain.
5. According to the Town Shoreland Overlay District Map, the project is not within the shoreland district.

### **Private Way Requirements**

1. According to Paragraph H (1) of Section 2-5 of the Gorham Land Use and Development Code, gravel private ways may serve up to 6 lots, with no more than 6 total dwelling units. In the proposed condition, 5 lots are served by the private way. It is assumed that the lots served consist of single-family homes and therefore the 6 dwelling unit requirement is not exceeded. Applicant to confirm.
2. Since 2 or more lots are served by the private way, a maintenance agreement is required. A draft maintenance agreement has been provided. The maintenance agreement to be finalized and recorded in the Cumberland County Registry of Deeds within 30 days of Planning Board approval.
3. The proposed extension of the Private Way meets the standards of Tables 2 and 3 and typical gravel private way cross section for 2-6 lots.
4. It appears that proposed monuments are shown on the plan with black dots. However, they are not labeled or shown on a legend. Please specifically call them out on the plan and specify the type of monumentation 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  
JONATHAN & CYNTHIA SMITH – COUNTRY LANE PRIVATE WAY EXTENSION**

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**January 3, 2022**

**Applicant/Property Owner:** The applicant/owner is Jonathan & Cynthia Smith, 27 Wards Hill Road, Gorham, ME 04038.

**Property:** The lot is identified as Tax Map 69, Lot 41-8, and is located off Sebago Lake Road (Route 237).

**Consultant:** Owens McCollough, P.E., and Stephen J. Martin P.L.S.

**Project Description:** The applicant is requesting approval to construct a 150 foot private way extension to the 2-6 lot gravel private way standard, located off Sebago Lake Road to serve four (4) lots. The lot is identified as Max Map 69, Lot 41-8, and is located in the Rural zoning district.

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

**Zoning:** Rural (R)

**Variances:** 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:

Sebago Technics, Inc., plans (the plans) for a private way, prepared by Owens McCollough, P.E., consist of the following:

Sheet 1 of 3 – Amended Plan of Private Way dated 10/22/21 as revised through 11/16/21; received 12/07/21
Sheet 2 of 3 – Private Way Extension Plan and Profile dated 10/22/21 as revised through 11/16/21; received 12/07/21
Sheet 3 of 3 – Erosion Control Notes and Details dated 10/22/21 as revised through 11/16/21; received 12/7/21

Other documents submitted consist of the following:

Private Way Application – 12/07/2021  
Plans – Received 12/07/2021  
Declaration of Maintenance – Draft received 12/07/2021  
Gorham Town Planner – 12/28/2021  
Gorham Fire Department – 12/15/2021, 12/21/2021  
Gorham Assessor Comments – 12/13/2021  
Gorham Code Enforcement – no comments received  
Gorham Public Works Director – no comments received  
Gorham Police Department - no comments received  
Wright Pierce – 12/22/2021

## **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 are required to meet the requirements of the Rural 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.

The existing name of the private way is “Country Lane.”

*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 Owens McCollough, P. E.

The Plan title block reads "Amended 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 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 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 proposed private way 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 3 of 3 shows 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) residential dwelling units.

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 will need to retain enough area to meet the lot sizes in the Rural 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 Sebago Lake Road (Route 237) 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 Jonathan & Cynthia Smith’s request for approval for Country Lane extension, a 150 foot private way designed to the Town’s 2-6 lot/dwelling unit gravel private way standard, located on Map 69, Lot 41-8 and situated in the Rural 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 Jonathan & Cynthia Smith’s request for private way extension approval pending responses to remaining issues (and finalizing revisions to the plan).**

**OR**

**TO CONSENT AGENDA:**

**Move further review of Jonathan & Cynthia Smith’s request for private way extension approval to a future Consent Agenda pending the submission of revised information addressing outstanding staff and Planning Board comments.**