

**Town of Gorham
 Planning Board Meeting
 July 11, 2022**

ITEM 6 – Subdivision Amendment and Private Way – Moore, Peter — a request for approval to amend the approved Tannery Brook Subdivision to extend the right of way and approve a private way to access lot 14 in Tannery Brook Subdivision. Zoned, SR. Map 47, Lot 26. The applicant is represented by Shawn Frank, P.E., with Sebago Technics, Inc.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-application Discussion		NA
Subdivision Amendment Review		July 11, 2022

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

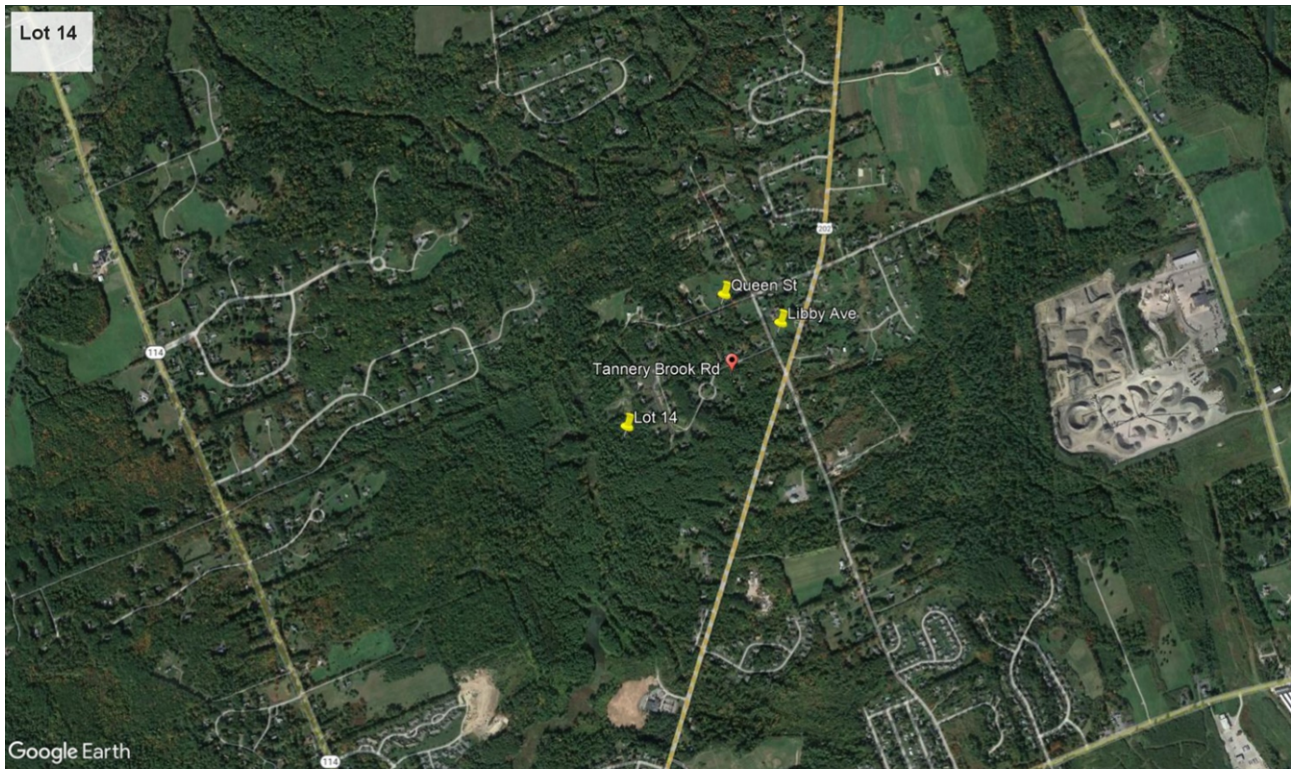
This is the first time this amendment has been in front of the Planning Board for review.

The applicant would like to amend an existing subdivision to extend the approved 50-foot right of way by approximately 200 feet on lot 14 and construct a private way.

The applicant is represented by Shawn Frank, P.E., with Sebago Technics, Inc.

2. ITEMS OF NOTE

Google Image



3. STAFF REVIEWS

Assessing Department: No comments received

Code Division: No comments received

Fire Department: No comments received

Planning Division: 07/07/2022

July 7, 2022

1. Current zoning is Suburban Residential; FLUP recommends a change to Village Expansion.
2. Previously, the Fire Dept. has requested that driveways not be located off the ends of a hammerhead. Please confirm with them.
3. Financial capacity needs to be submitted.
4. "A plan showing the private way shall be prepared by a registered land surveyor." Who is the surveyor who prepared the plan?
5. "The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of a legal majority of the Planning Board, the date of approval, and the words, "Private Way, Approved by the Town of Gorham Planning Board." Please revise the approval block.
6. Please check all the map and lot numbers on each plan sheet. Current town records show that this is Map 47 Lot 26.

Police Department: No comments received

Public Works Department: 06/30/2022

June 30, 2022

I have no issues with this plan

Recreation Department: No comments received

Town Attorney: 06/17/2022

June 17, 2022

Carol,

Since it is established as a reserved 50 foot ROW, I don't see a need for a subdivision amendment if that is all that is being used for the private way. However, Shawn says that the ROW needed to be extended. The plan states that 200 feet of frontage is required, so it sounds like that may be what he is referencing when talks about an extension. If that is so, that will require a subdivision amendment since it is revising/extending an easement.

**PLANNING BOARD
FINDINGS OF FACT
For
SUBDIVISION AMENDMENT REVIEW
MOORE, LOT 14, TANNERY BROOK**

July 11, 2022

Applicant: Peter Moore, 28 Schooner Road, Scarborough, Maine 04074

Property Owner: SB Enterprises, PO Box 69, Gorham, Maine 04038

Property: The lot is identified as Tax Map 47, Lot 26, and is located in Tannery Brook Subdivision Phase 2 off Freedom Drive in Gorham.

Consultants: Shawn Frank, P.E., with Sebago Technics, Inc.

Project Description: The applicant is proposing to extend the already approved 50-foot right of way an additional 200 feet and construct a private way.

Site Description: The lot total is 47.52 acres in size.

Applicability: Subdivision Plan and Private Way regulations identify the Planning Board as having review and approval authority.

Current Zoning: Suburban Residential (SR)

Variations: None requested.

Waivers granted previously: A waiver of the requirements of Chapter 3, Section 3-3, B. 16, for a Nitrate Plume Analysis was granted on January 7, 2019.

Pursuant to the Application:

Subdivision Amendment and Private Way Review was held on July 11, 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 consist of the following:

Sheet 1 of 1: Plan of Private Way – Dated, 05/23/2022; Revised through, 06/16/2022; Received, 06/16/2022
Sheet 3 of 10: First Amended Subdivision Plan – Revised through, 06/16/2022; Received, 06/16/2022

Other documents submitted consist of the following:

Subdivision Amendment Application – 06/23/2022
Private Way Application – 06/16/2022
Street and Driveway Name Approval Form – 06/16/2022
Plans – Received 06/16/2022
Letter of Financial Capacity -
Gorham Town Planner Comments – 7/7/2022
Gorham Assessor Comments – No comments received
Gorham Fire Chief Comments – No comments received
Gorham Public Works Comments – 06/30/2022
Gorham Code Enforcement Officer – No comments received
Gorham Recreation – No comments received
Town Attorney Comments – 06/17/2022

4. FINDINGS OF FACT

CHAPTER 3 - SUBDIVISION, SECTION 3 - PRELIMINARY PLAN

The Planning Board, following review of the Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter 3, Subdivision, Section 3 – C. Preliminary Plan Review, and Section 4 – C. Final Plan Review.

C. PRELIMINARY PLAN REVIEW

- 2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:
 - a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter 2.

The applicant is required to obtain all local, state, and federal permits needed for the proposed development.

The Comprehensive Plan identifies this area as Village Expansion. The plans meet the requirements of the Village Expansion zoning district for residential density.

Finding: Tannery Brook Subdivision Amendment: Phase 2 conforms to the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

Access to the subdivision lot will be located on Freedom Drive designed to the Town's rural access road standard. All driveways will meet the Town's minimum sight distance requirements.

Finding: Tannery Brook Subdivision Amendment: Phase 2 will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

- c) Will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

The single-family homes located in the subdivision will be served by underground power, electric and telephone lines, and the Town's contracted waste disposal contractor.

Recreation and school impact fees are required that offset the additional school and recreational needs created by a residential subdivision.

Finding: Tannery Brook Subdivision Amendment: Phase 2 will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.

The subdivision lots will be served by public water supply from the 8" water main located in the Freedom Drive right-of-way meeting the Portland Water District requirements. Each lot will be served with a 1" residential service from the 8" water main extension.

The Portland Water District has provided an ability-to-serve letter dated January 9, 2019, from Robert A. Bartels, P.E., Senior Project Engineer with the Portland Water District, addressed to Parker Brown, Asst. Controller, with Shaw Brothers Construction, Inc. The Portland Water District also submitted an email to Tom Poirier, Town Planner, on February 13, 2019 identifying that they have no further comments for the proposed subdivision.

Finding: Tannery Brook Subdivision Amendment: Phase 2 shall provide for adequate water supply for present and future needs.

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The lots will have on-site subsurface disposal systems designed by a Maine Licensed Site Evaluator. All private septic systems are required to meet the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

Each lot has a passing soil test pit meeting the State of Maine's Subsurface Wastewater Disposal Rules.

Finding: Tannery Brook Subdivision Amendment: Phase 2 shall provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

- f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

Storm water from a portion of the Freedom Drive is collected into ditches, catch basins, culverts, and pipes directed into the stormwater pond located on lot 14.

The existing development disturbed over an acre and is located within the Urbanized Area as defined in the Town's Storm Water Ordinance, Chapter 2, Post-Construction Storm Water Management. The existing stormwater facilities are required to meet the maintenance and inspections standards outlined under the Town's Post- Construction Storm Water Management section of the Ordinance.

Finding: Tannery Brook Subdivision Amendment: Phase 2 will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

- g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

The construction of any residential unit will not impact wetlands or water bodies. Future development shall place erosion and sedimentation controls around the development site.

All the residential house lots will be loamed and seeded to prevent soil erosion. The majority of the storm water from the subdivision will be directed into grassed ditches.

The Tannery Brook: Phase 2 Subdivision homeowners' association is required to maintain the storm water drainage infrastructure.

Finding: Tannery Brook Subdivision Amendment: Phase 2 will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

- h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

The originally approved plan set includes sheets showing the locations for erosion control devices as well as providing erosion control details and requirements. The information is shown on Sheets 5, 6, 7, and 8.

Wetlands are located on both the southern and northern portions of the site with a majority of the wetland being located along the western property boundary. A stream is also located on the northwestern corner of the original lot.

Finding: Tannery Brook Subdivision Amendment: Phase 2 will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

- i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

The construction of future residential units and driveways will not impact wetlands or water bodies. The layout of the buildings and driveway will not impact trees and other natural features on the site.

No known historic site, rare or irreplaceable natural or manmade assets are located on the site.

Finding: Tannery Brook Subdivision Amendment: Phase 2 shall respectfully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

- j) Financial Capacity to meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.

The applicant has not submitted information regarding financial capacity.

Finding: The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards for the development.

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to meet the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter 8.

Any future development will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: The applicant of Tannery Brook Subdivision Amendment: Phase 2 will be responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
- a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
 - b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The applicant is not providing open space and/or recreational land nor facilities within this subdivision amendment.

The applicant is not proposing any formal open space as part of the development of the site. The homeowners' association shall be responsible for maintenance of stormwater infrastructure within the development. Each lot owner within the development is required to be a member in the homeowners' association. Stormwater maintenance and reporting shall be completed per the Town's Storm Water Ordinance, Chapter 2, Post-Construction Storm Water Management.

Should the Town accept Freedom Drive as a Town road, the maintenance of stormwater infrastructure not located within the road right-of-way shall remain the responsibility of the homeowners' association.

Finding: *No additional recreational facilities or open space will be provided.*

CHAPTER 3 - SUBDIVISION, SECTION 3-4 C. -FINAL PLAN REVIEW D. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

The project received preliminary subdivision approval on January 7, 2019. This is an amendment to the final plan approved on May 9, 2019.

Finding: *The final plans have been submitted to the Planning Board.*

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval.

The project received preliminary subdivision approval on January 7, 2019. This is an amendment to the final plan approved on May 9, 2019.

Finding: *The final plan was submitted within 12 months of issuance of the preliminary approval*

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 lot served by the private way is required to meet the requirements of the 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 applicant has submitted proposed names for the private way to be reviewed by the Fire Chief and Police Chief.

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 prepared by _____, RLS.

The private way plan was sealed by Shawn Frank, 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. H.

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 private way is to access one lot, which is subject to the existing Homeowner's Association documents and agreements.

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 extend a 2 – 6 lot gravel private way. Sheet 1 of 1 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 one (1) residential dwelling unit.

Finding: *The private way is proposing to serve one (1) residential dwelling unit.*

- 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 retain enough area to meet the lot size requirements 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 Freedom Drive which is suitable to serve the proposed private way extension.

Finding: *The proposed private way will be off Freedom 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. Any staff, Board and peer review comments shall be addressed prior to the Board Chair signing the plans;
3. That prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits;
4. 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;
5. All waivers and variances shall be listed on the plan prior to recording;
6. The map and lot numbers shall be listed in the bottom right corner of all pages of the plan set;
7. Recreational and Middle School Impact fees shall be paid prior to receiving a building permit;

8. That the underground electric lines shall be inspected by the Code Enforcement Office prior to backfill;
9. That the road shall be properly signed and named with a Town approved street sign with the street sign installed as soon as the road is constructed;
10. That the name of the road shall be approved by the Police and Fire Chiefs;
11. That prior to the 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;
12. 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;
13. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
14. That the subdivision plans shall not be released for recording at the Cumberland County Registry of Deeds until the required performance guarantee has been posted meeting the approval of Town Staff; and the subdivision plan is required to be recorded within one year of original approval or the approval becomes null and void; and
15. That these conditions of approval must be added to the plan and the plan shall be recorded at the Cumberland County Registry of Deeds within one (1) year of the date of written notice of approval by the Planning Board, and a dated copy of the recorded plan shall be returned to the Town Planner prior to the pre-construction meeting.

SUGGESTED MOTIONS:

TO TABLE SUBDIVISION AMENDMENT and PRIVATE WAY APPROVAL:

Move to table further review of Peter Moore's request for subdivision amendment and private way approval pending responses to remaining issues (and finalizing revisions to the plan).

TO PLACE SUBDIVISION AMENDMENT and PRIVATE WAY APPROVAL ON A FUTURE CONSENT AGENDA:

Move to place subdivision amendment approval on a future consent agenda when all materials have been completed and reviewed by the Town Planner, peer review engineers, town attorney and town staff, as applicable.