

# **Town of Gorham**

## **Planning Board Minutes**

### **February 25, 2021**

**Members Present by Remote Connection:** Paul Robitaille (Chairman), Abby Evankow, Michael Waddell (Alt Ex-Officio), Dan Buteau, Jeff Schall, Reuben Rajala, Brian Ruel, Barney Valliere and Earl McGillicuddy

**Members Excused:** Peter Gagnon and Wayne Flynn

**Members Absent:** None

**Members of the Public Present by Remote Connection:** Tara Bamford, John Scarinza, Burke York (York Land Services), Edith Tucker, Marybeth Smith, Denise Vallee (TM), Tadgh Slater, Ron Cook, Biron Bedard, Terry MacGillivray, Michael Scotsas, Matt Bowman, Jeff Stewart (Rec Dept), Terrill Platt, Phil Cloutier (Fire & EMS), Deidre Blair, Judy LeBlanc (BOS), Jason Reimers, Lindsay Swanson, Keith & Molly Olmstead, Donna Theriault, Holly Fontaine, Jack Jennings, Mike Pelchat, Bruce Lary, Jesse Lutz, Diane Holmes, Bob McDougall, Victoria McGillicuddy, Dan Dagesse and Jennifer Olson and Michelle Lutz (Board Secretary)

**Due to the COVID-19 Pandemic and per Emergency Order #12 issued by Governor Sununu on March 23, 2020 and by Executive Order 2020-04, all members listed as present attended the meeting electronically with both video and audio capability. The public was able to attend the meeting in the same manner. All votes were taken by roll call as required.**

**Call to order:** The meeting was called to order at 6:30 by Chairman Robitaille

**Appointments** – Chairman Robitaille appointed Earl, Jeff and Reuben as full voting members.

**Review & Accept Minutes of December 17, 2020:** On a motion from Mike Waddell with a second from Jeff Schall, the board voted by roll call vote to accept the minutes as presented with Abby Evankow abstaining.

**Minutes of February 18, 2021:** On a motion from Mike Waddell with a second from Dan Buteau, the board voted by roll call vote to pass over the minutes until corrections could be made.

#### **Case #02-2021 – Summer Fun – Site Plan Review**

Tara Bamford explained to those present the difference between a site plan review in front of the planning board as opposed to a special exception at the zoning board of adjustment. Site plan review looks at whether the proposed project is set up properly on the site. Burke York then gave a brief overview of the project. Summer Fun Inc has purchased the former Burger King property which is an approximately 5 acre lot. No changes are planned to landscaping or parking. There is a shaded area on the plan which will be for ATV/UTV parking only. There is space on the lot for approximately 160 units with only about 100 expected to be rentals (Burke later explained that there would be 100 rentals units on site with an additional 50 reserved for replacements at the 177 Main Street lot). There are 115 parking spaces with an additional 2 ADA parking spaces. The proposed hours of operation will be 9 am to 7 pm, 7 days per week. No cleaning of the ATV/UTV's will happen on site but will be done at 177 Main Street. Mike Waddell talked about the plans the owner has to change how things are run at this location as opposed to the current location at 177 Main Street such as the addition of geofencing and lead outs which are listed as conditions on the plan and though these plans will help there needs to be an enforceable standard. The BOS has been dealing with concerns regarding the 177 Main Street lot. Parking, washing of the ATV's the number of ATV's [on the plan vs actually used] have not been dealt with. Machines being rented multiple times a day could increase the approved number exponentially. He felt that if the use of this new site would be tied to the lot at 177 Main Street then that lot should be part of this plan as well. He also acknowledged that leaving the business at its current location is problematic. Paul voiced concerns about the dogleg of land that connects the property to Union Street being used as a pass thru to the

177 Main Street lot. Reuben voiced concerns about the 177 Main Street Site Plan having shown approximately 48 machines on the plan (though that number was never set as a condition in that site plan approval) but there were many more than that on site. He also expressed concerns that with the company now owning multiple sites in town, there was the potential to have machines at each site. Tara cautioned that the board couldn't look at the company as part of the site plan but they could look at the traffic impact. Barney agreed with Mike and Reuben that the increase in proposed ATV's could have a severe impact and he felt that an environmental impact study should be done as the board needed information such as noise and traffic impact. Mike felt that a traffic study would be appropriate as 150 machines on site could mean 300+ rentals per day and further stated that lead outs work, geo-fencing works but those things need the attention of the property owner. Out of towners being stopped and receiving tickets because they are confused and in an area where ATV's are not allowed is a black-eye for the town. Jeff Schall had concerns about the machines safely exiting and entering the lot. Having to turn left leaving with the summer traffic on Main Street was cause to have a traffic study done. The plan to wash the machines at 177 Main Street and having machines traveling back and forth between the sites translates to a lot of left turns on a very busy road. Mike recommended that the board follow the procedure similar to a subdivision and hire an independent engineer to do a traffic study. The board discussed whether to require that before or after the application was accepted.

On a motion from Earl to accept the application as complete and to hold the public hearing, which received a second from Mike Waddell, the board voted by roll call vote:

Earl-Yes                      Jeff-Yes                      Mike-Yes                      Barney-No                      Reuben - No

As the board accepted the application as complete, Mike made a motion to hire an independent traffic engineer to study the ATV impact on this site and the sites that are interconnected to it. The motion received a second from Jeff. Chairman Robitaille called for a roll call vote:

Barney - yes      Earl - Yes                      Jeff - Yes                      Mike - Yes                      Reuben - yes

Chairman Robitaille then opened the public hearing at 7:52 pm and allowed Lindsay Swanson to make her presentation to the public as an operations manager of Northeast Snowmobile and ATV. They have been renting ATV's in Gorham for 9 years. They outgrew their locations which led to traffic congestion downtown. They approached the Town Manager and Police Chief with the idea of purchasing the former Burger King lot to move their operations to that site to which everyone agreed would be a better location. She further stated they have heard from the public that their original site was allowed 48 machines and there were actually 175 units which is inaccurate. There were actually 120 units and they averaged 71 rentals per day between two locations (177 Main St & 323 Main Street). They anticipate the same or a decrease in rentals. All rentals will leave from the Burger King site only. 177 Main Street will only be used for maintenance and washing. They are looking into purchasing an air compressor washer to further reduce the noise which is a direct result of feedback received in a recent letter. The 323 Main Street property will only be used for snow machine rentals. They will require first time renters to go on a guided tour, all machines will include geo-fencing to eliminate off-trail riding, all units will be governed to 40 mph in order to match the speed limit on the road between Jericho Park and Berlin on Route 110. The move to the Burger King lot should have a decreased effect on traffic because the large parking lot will allow for ample customer parking. Riders will no longer use the breakdown lane as a rally point as all machines will have ride command to direct them to the trailhead. Last year they averaged 32 cars per day. The former Burger King owner shared that they saw approximately 500 cars per day and was open year round versus the half year the rental is open which is a 75% decrease in traffic entering/exiting the lot. Tara questioned why the original plan was to wash the machines on-site and the updated plan is to not do that and wondered what the reason was for the change. Lindsay stated that the reason was because of the concerns raised about the water runoff going into Messenger Brook. Tara questioned where the runoff goes from the 177 Main Street property which Burke answered is into the catch basin on Main Street. Roger Pelletier, president of the OHRV club spoke in favor of the application. He supports Northeast Snowmobile and ATV, has been a resident of Gorham for 50 years and felt that the Burger King lot was the better spot. Northeast Snowmobile owns 3 properties in town and is a taxpayer and brings business to the motels, restaurants and gas stations in Gorham. Gorham has always been a tourist town. Jason Reimers from BCM Environmental & Land Law representing several residents of the Union Street and Country Lane neighborhood. He is requesting that the board hold off on site plan review until a zoning decision is received from the code officer as he has requested in writing. He is questioning why 177 Main Street is not included in this site plan as they are tied together. He feels that the abutters to the 177 Main Street property should have been notified as that property is going to be used in concert with the current proposal and felt that was a legal error. They are requesting an impact study and hopes that the traffic study includes traffic from both 177 Main Street and this lot. They are requesting that a noise impact analysis be performed by a noise expert be done and that an impact study be done on the washing of the ATV's to address if there is enough filtering in the catch basins as there is a lot of water and mud and people have noticed muddy water entering Messenger Brook. Bruce

Lary has concerns about the land between the Olmstead property and the former Gorham Spring being used to go between the 177 Main Street property and the Burger King lot which could make the lower end of Union Street look like a freeway and would reduce property values there. The other concern he has is that the plan for 177 Main Street originally showed sufficient parking for ATV's and customers but it turned out that there was barely parking for 5 customer vehicles with all the ATV's on site and would recommend that the public parking spaces showed on the current plan be reserved for customer parking and not ATV's. His other concern was about the proposed fuel storage and recommended that a containment barrier be installed around the fuel tank. Deidre Blair reminded the board that the lawsuit about the ATV's on Lancaster Road has not yet been settled and that neighborhood's quality of life has been destroyed and now another neighborhood has hired an attorney there and it should be a huge red flag. Dan Dagesse who is an abutter to the Burger King lot has concerns about the runoff from the washing of the machines as it does contain oil or gas and needs an oil separator to keep that from running into any brooks or municipal systems. He is concerned about the noise level and the traffic and felt that this may not be the proper location for this type of business. Jack Jennings who owns the Road Hawg Barbecue next door to the project questioned if what they were trying to decide was if the decision was whether to have an ATV business in town or just that location? He felt that if they were not allowed to move their operation, it was going to be another empty building as it is hard to do business in a seasonal area. He stated that the customers from Northeast have always been very respectful to his staff and that without them, they would not be able to employ the number of employees they have. They park in the rear parking lot all summer long. He also said that the hikers who come to their restaurant and see the ATV's, like the idea and say this is a really cool area as they have many options. He also questioned if we were going to stop log trucks from coming down Gorham Hill and through town creating noise. Marybeth Smith questioned the ability of the Town to limit the number of machines allowed on the site plan and the site plan for 177 Main Street. Would that reduce the impact and eliminate some of the issues? Tara explained that you cannot go back to the 177 Main Street plan. She also questioned what the penalty was for ATV's ending up in areas they don't belong? Are they being fined and where does that money go? Who enforces the constraints and holding the business accountable? Donna Theriault stated that she is directly affected especially if both sites were used. It is difficult in the summer to get out onto Main Street already. She felt that there was a better location from them and not in the middle of town. She also wanted the board to be aware of the number of calls to the GPD last summer and read those complaints. She also wondered where that money goes? What happens if people who rent don't abide by the rules and receive tickets, how does Northeast Snowmobile and ATV handle them as repeat renters. She questioned the balance of outdoor recreation in town and felt that the ATV's were taking over. She would like to see more non-motorized recreation. She felt that because Gorham has the majority of restaurants and hotels that people would come here anyway. She pointed out that the number of people who submitted letters in opposition to the project totaled 31 and only 4 were received in favor (3 businesses and 1 Shelburne resident). Holly Fontaine of Country Lane is concerned about hiring guides and questioned what kind of training they would have and who would police that? Abby Evankow stated that the zoning ordinance was designed to protect the districts and felt that the Commercial A district didn't allow 7 chickens because of noise and odor but this proposal was for 150 or more machines and felt that an impact analysis should be done to see what the impact was to examine the noise and the odor, looks at the impact to the Androscoggin River, the impact to the police and property values, and referred the board to the recent Master Plan. Jesse Lutz stated that he has been employed by Northeast Snowmobile and ATV for almost 7 years and that the business has been nothing but good to the employees that work there. He felt it was great for the community and the employees who work there. Attorney Reimers again reiterated that a noise study should be done and that people had stated they could not use their back yards because of the noise and that the Town has a noise ordinance. He submitted 53 pages of police reports from 2020. The master plan stresses the desire for a walkable downtown and felt that the existing 177 Main Street property already interfered with that and this would only add to that. As no one else wished to speak, Chairman Robitaille closed the public hearing at 8:36. Mike Waddell stated that the board needed a little more clarity on how the number of machines translated into the potential number of rentals. He also noted that there hadn't been any discussion on the impact to the trails around Gorham but that he had been on a trail last summer that needed an ATV to travel when previously you could go through there with just a 4 wheel drive vehicle. He questioned at what point we broke the trail system. The board also discussed whether to require a noise study as well. Chairman Robitaille questioned if they wanted to continue the meeting to discuss multiple items. Mike made a motion to continue the meeting to March 4, 2021 at 6:30. The motion received a second from Barney Valliere and Chairman Robitaille called a roll call vote: All members voted in favor

**Code Enforcement Update – None**

**New Business** – Chairman Robitaille stated that he would like to discuss with the board about hiring it's own attorney. Both Mike and Barney felt that it was a bad idea and suggested that he meet with the Board of Selectmen before doing that.

**Old Business** – Tadhg Slater had previously submitted a letter to the board regarding his plan for an art gallery and espresso bar at 101 Main Street. On a motion from Mike with a second from Brian, the board voted not to require site plan review with all members voting in favor and Abby not voting.

**Next Meeting** – The board already has a meeting scheduled for March 4, 2021 to continue Case #02-2021 and March 11, 2021 for regular business.

**Adjournment** – On a motion from Mike with a second from Barney, the board voted unanimously to adjourn at 9:10 pm by roll call vote.

Respectfully submitted,



Michelle M. Lutz

Approved as Amended March 4, 2021