

# Town of Gorham

4736 South Street  
Gorham, New York 1461

## PLANNING BOARD

Monday, November 25, 2024 7:30 p.m.

### **MINUTES—Approved**

*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Planning Board. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.*

**Board Members Present:** Thomas Harvey, *Chairperson*  
Bob Farmer  
Richard Perry  
Mike Kestler

**Board Members Absent:** Gabrielle Harris  
Andrew Hoover  
Jeremy Stowe

**Staff Present:**  
James Morse, Town of Gorham Code Enforcement Officer

**Applicant Present:**  
Dan & Judy Novak  
Brennan Marks, Marks Engineering  
Ed Martin, DDS  
Andy Prestigiacomo  
Michelle LaDue  
Lydia LaDue  
Eric Linke

**Others Present:**  
Helene & Bill Messner  
Ed Kaiser  
Tom & JoAnn Charles  
Helen & Paul Babiarz  
Dick Hall

Kathy Baxter  
Ellen Chesler  
Rip Neary  
Linda & Mike Roche

**Other's Via Zoom:**

Mark Becue  
Jon Jones  
Unidentified

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**1. MEETING OPENING**

The meeting was called to order at 7:30 p.m. by Mr. Harvey.

Mr. Harvey said we have several public hearings this evening. Two of the public hearings were adjourned at the last meeting to be reopened. Generally we will open the public hearing and I will announce the name of the applicant, the type of application it is, and will ask Sarah to ready the public hearing notice as it was published in the official paper of the Town. We will ask the applicant to explain the application. The Board may ask questions and then I will give the opportunity for anybody who wants to make comment on the application. For subdivisions by law we have to take action on the environmental review before the public hearing. For the site plans we will open the public hearing and take comments and after we close the public hearing we will take action. If the Board feels they have enough information they will close the public hearing and take action. On the application themselves, the Board can deny, they can approve as submitted, or they can approve with conditions. That is true whether we have a subdivision, or a site plan, or even a special use permit.

**2. APPROVAL OF MINUTES OF OCTOBER 28, 2024**

■ A motion was made by MR. KESTLER to approve the minutes from OCTOBER 28, 2024 and the motion was seconded by MR. FARMER.

Motion carried by voice vote with all present voting aye.

**3. LEGAL NOTICE**

**NOTICE IS HEREBY GIVEN** that Public Hearings will be held by and before the Planning Board of the Town of Gorham on the 25<sup>th</sup> day of November 2024 commencing at 7:30 p.m., Eastern Daylight Savings Time, at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following applications and to discuss all matters relevant to the environmental review under the New York State Environmental Quality Review Act:

**PB #97-2024: MICHELLE LADUE 950 DEER CROSSING, VICTOR, NEW YORK, 14564:** Requests site plan approval to construct a single story single family residence with attached garage. The property is located on the east side of Summit Parkway between Blossom Road and Grove Street and is zoned HR Hamlet Residential.

**PB #98-2024: DANIEL & JUDITH NOVAK 4773 COUNTY ROAD 11, RUSHVILLE, NEW YORK, 14544:** Requests site plan approval to construct a garage and three season room addition to the existing single family residence. The property is located at 4773 County Road 11 and is zoned R1 Residential and LFO Lakefront Overlay District.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Thomas P. Harvey, Chairperson  
Planning Board

**4. CONTINUED PUBLIC HEARING**

**PB #79-2024: SPRINGHILL SUBDIVISION LLC 1777 EAST HENRIETTA ROAD BUILDING A SUITE 100, ROCHESTER, NEW YORK, 14623:**

Final Overall Subdivision and Phase 1 approval of 80 lots consisting of 55.6 acres known as the Scenic Ridge Rise Subdivision. The property on the east side of NYS Route 364 south of Angela Way and is zoned R1 Residential.

Mr. Harvey said I am going to reopen the public hearing that was adjourned at the last meeting. The applicant has suspended his review. He sent us a letter. Jim and I had a meeting with him. He needs to get his approvals from other state agencies and see if they have any modifications that they will require. That will allow us to more accurately review his final subdivision application. With that we are going to close this public hearing. Again, this application is suspended to when he comes back for final we will re-advertise the public hearing and that process will start all over again. With that, this public hearing is closed.

Ms. Messner said does this now put him within the sixty two days?

Mr. Harvey said no, suspend means suspend.

Ms. Messner said so he still has his sixty two days.

Mr. Harvey said he doesn't have sixty two days for anything. The way the state law and town law is once he makes application we have sixty two days to schedule a public hearing upon receipt of the application and we have sixty two days after the public hearing is closed to take action on it. So that sixty two days is on the Board not the applicant and

again he has voluntarily suspended his application so there is no time clock running whatsoever.

**PB #90-2024: ANDY PRESTIGIACOMO DEEP RUN COVE, CANANDAIGUA, NEW YORK, 14424:** Requests site plan approval to construct a 21 x 50.5 Multi-Use Recreational area. The property is located at parcel Tax ID# 127.11-1-52.00 on Deep Run Cove and is zoned R1 Residential and LFO Lake Front Overlay District.

Mr. Harvey said we are going to reopen the public hearing on this application.

Mr. Prestigiaco said I am here to answer the last question about the gate on our property whether it is staying or going. The point I am trying to make, from every meeting, is that this gate is there to try to prevent the trespassers that have gone through that area over the years. I have been working with the Lake View Hills Homeowners Association that has access to the property. Bob Mincer heads it up and is the gentlemen that I deal with. Many years ago we put a combination lock, provided by him, for his group to gain access to the property and they are the only ones who have access to the property. It works perfectly fine. It keeps renters out. It keeps trespassers out. It is something we all wanted to have because it simply identifies the property to only those that can get in and have access to it. So in the last several meetings this has been the last point we have had to get by is why I can't have it and why it's a question. I have a sign that has been up on the property. I took it down for a couple of months over the summer because we had an issue, but this is the sign that stays up. If anybody goes there and had a question about getting into it, that sign has been there for almost three years, and they can get a hold of Bob Mincer who is head of that association.

Mr. Harvey said is that his phone number?

Mr. Prestigiaco said yes and Bob has been the point person on it. That is at the end of the street and it is close to my property. I just don't understand why it has to come down because there are other fences throughout the community over off of Arrowhead right near the marina there is the exact same gate set up. There is another property off of Piccadilly that has a fence going over several access points because it's owned by one person. IT is really to police your property and to protect your property from trespassers. This is not a unique situation. It is like this throughout the community and I want to know why mine is being asked to be removed.

Mr. Harvey said I think that was a condition of the first site plan approval and what differentiates your property from the adjacent ones is nobody there is claiming they have a deeded right to access the property, which several of your neighbors do.

Mr. Prestigiaco said and they can get to it which is the part that is confusing. They are not being locked out of it.

Mr. Harvey said no you asked what was different about this property and that is what's different.

Mr. Prestigiaco said I get it.

Mr. Harvey said any questions from the Board?

Mr. Farmer said are there Town laws that say you can't block a right of way? It's a private right of way I know that.

Mr. Harvey said correct.

Mr. Farmer said so there's no laws.

Mr. Harvey said no, it's completely up to the Board on what they are going to allow as far as site plan review. The only guidance I can give you is that I don't think this Board should be approving something that violates the neighbors rights to access. The key point here is what Mr. Prestigiaco proposed is to allow reasonable access.

Mr. Farmer said I would be concerned with opening pandora's box here in the rest of the Town that has right of ways we would have people building fences.

Mr. Prestigiaco said some already do which is what I pointed out.

Mr. Farmer said very few. There is a lot of right of ways right there.

Mr. Prestigiaco said I agree.

Mr. Farmer said and I don't know how those got there but I would be opposed to right of ways being blocked because it's deeded.

Mr. Prestigiaco said but it's fully accessible to the people that have rights to it.

Mr. Farmer said but it's encumbered.

Mr. Prestigiaco said I guess we could joust about that but it's still accessible. It's a matter of just opening the lock and then you can walk in.

Mr. Martin said I would say that it is a protected access. It prevents people that don't have legal right to it from using it.

Mr. Farmer said you are preventing and I understand that but you are also preventing the people who have a right of way an unencumbered walking onto a property that they have a right to walk onto it.

Mr. Martin said but is their right guaranteed to be unencumbered? Let's assume that we agree that's encumbered, is it guaranteed unencumbered?

Mr. Farmer said I guess that would be a question to deal with with the lawyers. I think you would have to go and have a judge say you have to block it or you don't have to block it.

Mr. Prestigiaco said so what would he say about the other ones that exist throughout the community?

Mr. Farmer said he has the right to say take them all down. He can do that.

Mr. Prestigiaco said understood.

Mr. Farmer said I don't think we could as a Board but approving it we are kind of saying it's ok. I don't know if I want to take that responsibility of having so many right of ways being possibly encumbered and then coming in and saying the same thing you are saying. He did it so I can do it and we get that a lot. I'm not for it and I'm not against it except I'm concerned about what happens in the future and I don't know if those ever got approval. The thing is you guys are doing the legal part by coming to us but there is an awful lot out there that people have built things that aren't supposed to be there. I've talked to Jim about that. They have gotten complaints by the ZBA maybe as far back as 1990 but that's there and then somebody comes along and points that out now saying he did it why can't I.

Mr. Prestigiaco said so how do you extinguish things like that from happening or existing?

Mr. Harvey said we have public hearings and we listen to the people. Jim, before we go any further can you elaborate on the history of the fence and the gate.

Mr. Morse said Gordie had issued a fence permit for the property but unfortunately at the time he wasn't requiring a site plan, like we do know, showing where the fence was going to be placed. He must have talked to him because it does appear to be two feet of the property line.

Mr. Prestigiaco said it is.

Mr. Morse said so it was setback two feet but unfortunately we didn't have anything showing where they were putting the fence up. He had project going on at his property and when I was there that's when I saw the fence on his property. There were questions on it then but I thought that was put to rest. I know that there was a ladder put there at one time across the fence opening.

Mr. Prestigiaco said that was before the fence was there.

Mr. Morse said then I had somebody come in and admit to me that he took the ladder and threw it in the weeds so then there were issues with that. Then the next time I went down there was the fence and the gate with questions on that. Then we did our research which says you can't block a public or private right of way in our code. We discussed with him on numerous occasions that we thought with when he purchased it because he owns from

that point on that the deed description had changed. He was under the understanding that when he purchased it, he has been adamant with me, that it was under the understanding that he owned all that through there and that would be a private right of way because he owned everything.

Mr. Prestigiaco said I got that understanding from Gordie because he said I could put the fence up. As far as the ladder goes, please understand, I wasn't putting the ladder there for any other reason than to block a couple people that were trespassing. It was a ladder people could step over. It wasn't vertical it was horizontal.

Mr. Morse said I wasn't criticizing you on that.

Mr. Prestigiaco said it was just put there a child could have gotten over it. So, again, the gate was put there with full intention and understanding from the current head building inspector that I could do it and I did do it. I followed the setback. This wasn't something that was done in the middle of the night. It's been there for over four years. What we are really trying to establish is access. Everyone who has the right to that property can access that property. All it comes down to is access. I understand where you come from and I get it. If we sit here and dissect the word access, they have access.

Mr. Farmer said that's the thing that courts do.

Mr. Harvey said let's all be aware that if we take a vote on this, we have four members of a seven member Board tonight, so if we don't all unanimously agree any motion or resolution will fail. All the absentees and vacancies are all no.

Mr. Farmer said they may want to postpone it until they have seven people then. Is it still in our code right now?

Mr. Morse said that code section about blocking public and private right of ways is in our code. You can't do that. That's where the interpretation comes in and I am leaving it to the Board. You have to decide if him having a gate with a code key on it, for the people that legally have deeded access, is that access or not accessible.

Mr. Harvey said it would not be accessible for a public right of way but it's private.

Mr. Prestigiaco said it protects the property. I have a key on my house and my kids have access to it. Your kids don't. The door is there and the gate is there for that reason. There are a lot of renters in that area and we have a lot of trespassers.

Mr. Martin said I have done countless commercial projects that have gated access and obviously emergency services want access so we put a Knox box on it so they have access.

Mr. Prestigiaco said the Town has a key. The Water & Sewer Department has a key. They all have a key. They get in every quarter and read the meter. They check the sewer anytime they want so everybody else gets in. It's not a problem.

Mr. Harvey said does anybody from the public want to address the Board?

Ms. Chesler said first of all he makes it sound like it's just an easy little lock. He's got the lock on the inside and it's really hard for me to reach. There is a thorn bush around the lock so now you get all scratched up when you are trying to open it. He sounds like it's so easy peasy to do it but he makes it difficult. Also he is protecting that property like someone is going to steal that property. He has another gate in the inside blocking access to his house and his property so he has a double gates. One of them is just protecting this vacant lot. It seems like overkill. It's not convenient or easy to get in there as much as he is saying that it is.

Mr. Harvey said anybody else?

Mr. Babiarz said we were here five years ago discussing the same thing when you requested that he take it down. It is per the code that you can't have a locking fence or hedge. The code wasn't changed. To the gentlemen's point over there **\*\*inaudible\*\*** now you've opened up Pandora's box and everyone else in the Town will do that as well. I've lived here for thirty years and there has never been any evidence, that I can see of any trespassing going on. I've never seen the police down there in my thirty years.

Ms. Babiarz said this is about the gate not the fence. It's all double gates. Even if you took this gate out no one can still get to his property just like Ellen said. Everything is fenced. It's all around the property.

Mr. Prestigiacomio said the two people that are speaking, Helen & Paul, they have no access to the property whatsoever. They don't have access to the property but for some reason they want to come into my property I have no idea why. They have no deeded access whatsoever. Why they are here I don't know. It has nothing to do with them. They have no access to it. They have no legal access I should say.

Ms. Babiarz said **\*\*inaudible\*\*** when people come in to go to his property they stop in front of it and then they have to open the gate **\*\*inaudible\*\*** he has two trash cans. Then sometimes the trash cans end up on our property. **\*\*inaudible\*\*** so its annoyance. **\*\*inaudible\*\*** so it's not just the gate it's two trash cans in front of the gate. Which and then as I said sometimes end up on our property.

Mr. Prestigiacomio and Mr. Harvey then reviewed on the site plan the location of the fence and gate.

Mr. Harvey said Jim, is Deep Run Cove a public or private road right of way?

Mr. Morse said it is a private road right of way if you look at oncor.

Mr. Harvey said so other people still have the right to go on it with a vehicle.



Mr. Morse said I haven't seen a deed that says either way.

Mr. Harvey said I've seen the deed that says they have recreational access to the property.

Mr. Morse said exactly.

Mr. Harvey said, which means you get to walk down it.

Mr. Farmer said is it for everyone on Deep Run Cove.

Mr. Prestigiacomo said no, no one on Deep Run Cove have access except for Ellen.

Mr. Farmer said there is nobody else here that has access to it?

Mr. Prestigiacomo said no.

Mr. Farmer said so the only other people complaining are the people who don't have access to the fence. It really does bother me that these people aren't here. Do they get invited Jim?

Mr. Morse said everybody gets invited that is adjacent. To be honest with you, like I said, we don't enforce deed restrictions and the access right of ways we don't do anything with that. The only reason this has gotten this far is because we do have in our code about not blocking public or private right of ways but he is asking you if there is still access with the code access for this to be allowed.

Mr. Martin said we were here in August, September, tabled in October, and here we are in November and the people with legal access haven't said anything, from what I understand.

Mr. & Ms. Babiarz and Ms. Chesler said we were here.

Mr. Harvey said are there any further comments?

Ms. Babiarz said is this about the court also?

Mr. Harvey said this is about the court as well.

Ms. Babiarz said so you are asking if we have questions about that as well?

Mr. Harvey said sure, so we will keep the public hearing open, go ahead.

Ms. Babiarz said I send a letter about the fencing and the lighting.

Mr. Harvey said so the questions are how is the court being basically designed to be harmonious with our residential neighborhood and homes? I would say if you have space for it and it is not prohibited in the code, correct?

Mr. Morse said it is a recreational use in that area and is what the interpretation is. I had answered that question and referred the rest back to you because I assumed you were going to address lighting, hours, etc.

Mr. Harvey said question two says why doesn't an applicant have to inform the Planning Board of the type of activities that will be played on the multi-use recreation area that is 15 feet from our property which has an easement that allows for use by many homeowners? I'm going to stop there and my response would be it's his property and he is entitled to do with it whatever any other homeowner is allowed to do with a fifteen foot setback which is what our code requires. We are here to make sure he's preserved access to that piece of property in compliance with the deeds that you have. Will there be set times of usage for this area? As I understand it, if it's free anybody can use it that has a deeded right, correct?

Mr. Prestigiacomo said correct.

Mr. Harvey said and that's what we discussed because that is what's in your deeds. We are concerned about noise levels and activities not conforming to our neighborhood community. We are not giving them a permit for partying. We are not giving him a permit for outdoor music venues or anything like that. He is bound to whatever is allowed in a residential neighborhood just like you are.

Ms. Babiarz said so the lighting?

Mr. Harvey said I haven't seen any lighting on the plans.

Ms. Babiarz said fencing?

Mr. Harvey said the fencing is what's there.

Ms. Babiarz said **\*\*inaudible\*\***.

Mr. Harvey said no there is none that has been proposed, so if he puts it up Jim is going to give him a violation notice.

Ms. Babiarz said ok, that's fine.

Mr. Farmer said are there windows?

Mr. Prestigiacomo said there is no structure.

Mr. Harvey said it's a grass field.

Mr. Prestigiacomo said it is now. There is nothing to it, it's just going to be a flat surface.

Mr. Farmer said is it going to be concrete?

Mr. Prestigiaco said it's going to be asphalt.

Mr. Farmer said will there be markings on it or just a flat parking lot more or less?

Mr. Prestigiaco said it's not for parking it's just a recreational surface.

Mr. Harvey said so you have an undrain under it and you are going to recharge into the soil, so you have addressed stormwater. Are there any other comments?

Mr. Farmer said will people who have access to your property through your fence will they be able to ride their bikes on it or something like that?

Mr. Prestigiaco said as we stated there is nothing that anybody can do to damage it other than bring a jackhammer.

Mr. Farmer said but you don't want to erect a skateboard park or anything on it?

Mr. Prestigiaco said no.

Mr. Farmer said if somebody wanted to leave the fence open for five hours for some reason to go in and not lock it.

Mr. Prestigiaco said they are there they are responsible for it that's how it's always been. Whoever has access at that time is responsible for it. If people pull their car in they are responsible to close it when they leave. If people come in on bicycles or walk in with their dog they are responsible to close it.

Mr. Farmer said but they can leave it open when they are in there? They don't have to relock it.

Mr. Prestigiaco said when some people come down with their dogs they close it so they don't run back out. It's just kind of a policing thing and common sense kind of thing.

Mr. Farmer said they have access to your whole property?

Mr. Prestigiaco said no just this one parcel.

Mr. Farmer said and is that marked off?

Mr. Prestigiaco said yes.

Mr. Harvey said his house is down farther.

Mr. Farmer said does anybody use it now?

Mr. Prestigiacomo said no there is only a couple people that come. There are people that didn't even know about it until they were notified by the Town that there was a hearing.

Ms. Chesler said we can't get down to the lake because you have it so overgrown down there.

Mr. Farmer said but you have access to it, right?

Ms. Chesler said yes, but he is making it as difficult as he can.

Mr. Prestigiacomo said I cut the property on a weekly basis or biweekly basis.

Mr. Harvey said so there is nothing in terms of property maintenance that is a concern?

Mr. Morse said I can't start that. I can't pick and choose because there are people a little ways down that don't mow half of their beachfront, do I tell them they have to do it? It's whatever his deed says and if it says it has to be maintained and we only make people maintain general setbacks. There isn't a structure there to begin with so really it can be forever wild in my opinion on that one.

Mr. Harvey said are we good? Hearing none I will close the public hearing at this time.

Mr. Harvey said the Environmental Assessment Form Part 2 all answers were no or small impact. Question 4 stating there are no officially established critical environmental areas in the Town. Question 8 we based our answer on the September 5, 2024 letter from the NYS Office of Parks, Recreation, and Historic Preservation saying they didn't have any concern with archeological or historic resources with regard to this project. As far as stormwater based on the evaluation from MRB there is no discharge for the underdrain but it's purely for re-infiltration. Did you design it based on a perc test knowing the rate of infiltration was going to be adequate for the design flow?

Mr. Martin said yes and there is a discharge. It's at the lakeside basically. It's a french drain that will fill up eventually. A 100 year storm will flood everyone out so any storm like that it simply fills up that drain and flows to the north to the lake.

Mr. Harvey said so my question still stands, is there a rate of infiltration that handles the additional flow for the design storm on that parcel?

Mr. Martin said yes.

Mr. Harvey said thank you, so that will be compliant with the Town's requirements. Jim, you have identified and it does comply that it is an allowed use?

Mr. Morse said yes because when you go back to R1 it is allowed use and it is a recreation area.

Mr. Harvey said did we address the erosion and sedimentation control plan in addition to the erosion control measures that were shown on the site plan construction staging area and topsoil stockpile area?

Mr. Martin said I don't know if we show that but it is minimal grading. It's not like a full development so we could literally draw a circle on it and label it the stockpile.

Mr. Harvey said if there is an approval that is going to end up being a condition.

Mr. Martin said sure.

Mr. Harvey said we will want you to show your silt fence and other stormwater management for that area as well.

Mr. Harvey makes a motion to move Part 2 and 3 of the Environmental Assessment Form and the motion was seconded by Mr. Kestler to approve and to make a negative determination of significance. The motion was carried with all present voting aye.

Mr. Harvey said so the question boils down to, I think again, is the fence.

Mr. Farmer said is there any chance you could consider concrete instead of the asphalt? I just have a feeling that that much asphalt will get stuff in the lake. I don't know if we can make you do it but I would be more comfortable with concrete.

Mr. Prestigiacomo said I can consider that.

Mr. Harvey said I don't really think it's a difference in expense anymore.

Mr. Farmer said I think it would be more lake friendly.

Mr. Harvey said fair enough. Would you like to make a motion with conditions?

Mr. Farmer said I would like to make a motion to approve with the condition that the surface be changed to concrete.

Mr. Harvey said Jim, do you have an opinion if that area is accessible? Is it easy to get to the lock and unlock the lock?

Mr. Morse said usually when I meet Andy down there it's already open.

Mr. Prestigiacomo said but everyone else who has access can get in.

Mr. Farmer said just make a condition that the lock be moved to an accessible location.

Mr. Harvey said it would be, in my opinion, a different situation if there were more people past you then we would never allow a gate on this. It's just the end of the road and you are probably as inconvenienced as everybody else getting out of your car and unlocking it.

Ms. Babiarz said he never uses it. I've never seen him use the gate. He comes down the other way. It's all the other people who use it and then they have to back up and as I said it can be challenging. I've seen them struggle with opening it and with the trash cans. If there was no gate they could just drive in and not stop in front of us. That's why we are here. We haven't had this issue before the gate went up.

Mr. Harvey said are the trash cans on your side of the gate or on the inside of the gate?

Mr. Prestigiacomo said it is on my property and they are where they are to be per Finger Lakes Disposal in order for them to pick it up. They have to work their way down Deep Run Cove so they back down and that is where they wanted it. They spotted it and it's their disposal containers.

Ms. Babiarz said so when I go up to walk up my property I have two trash cans.

Mr. Prestigiacomo said you can't even see it it's at the end of the road.

Ms. Babiarz said but not on his side of the road it's on our side.

Mr. Harvey said they wouldn't pick it up from your other driveway entrance?

Mr. Prestigiacomo said they won't.

Mr. Harvey said really, because they don't want to be on 364?

Mr. Prestigiacomo said correct.

Mr. Babiarz said they pick it up on the adjacent property.

Mr. Prestigiacomo said he has an apron that allows it, so he has that second driveway.

Mr. Harvey said understood. The only remedy there is, again, it's not a public right of way it's a private right of way and people who have the right of way can put up signage that says no outlet no turnaround.

A motion was made by MR. FARMER and the motion was seconded by MR. HARVEY to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

**PRESTIGIACOMO  
RESOLUTION  
Application #90-2024**

**WHEREAS**, Andy Prestigiaco submitted a site application, known as the Multi-Use Recreational Area for Andy Prestigiaco Application #90-2024, for property located at Deep Run Cove on July 8, 2024; and

**WHEREAS**, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

**WHEREAS**, A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on August 19, 2024; and

**WHEREAS**, The Planning Board did conduct a Public Hearing at 7:30 PM on August 26, 2024, September 19, 2024, October 17, 2024 and November 25, 2024 at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

**RESOLVED**, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. The surface of the multi-use recreational area be changed from asphalt to concrete
2. Lock on the gate must be moved to a more accessible location

**RESOLVED**, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

**BE IT FURTHER RESOLVED**, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

Mr. Harvey said we will talk to the water district and if they have no issue with unlocking that then it is what it is. If they do then Jim will get ahold of you and say that has to change.

Mr. Prestigiaco said ok. No problem. Thank you.

## 5. NEW PUBLIC HEARINGS

**PB #97-2024: MICHELLE LADUE 950 DEER CROSSING, VICTOR, NEW YORK, 14564:** Requests site plan approval to construct a single story single family residence with attached garage. The property is located on the east side of Summit Parkway between Blossom Road and Grove Street and is zoned HR Hamlet Residential.

Michelle LaDue, Lydia LaDue and Eric Linke presented the above application.

Mr. Harvey said tell us what's going on.

Ms. LaDue said to put it simply I am looking to put in a new house or cottage.

Mr. Linke said what she's trying to say is she is living with me right now and because I'm not going to live forever so she will need a residence of her own. She purchased this property in the last few years. She has a builder and he is here with us tonight. She has already submitted the plans for the proposed structure.

Mr. Harvey said Jim is this the extent of the plan? Do we have any grading, stormwater cales, or anything in that nature? I don't really have an issue with the layout. A couple things that are missing from the application is the architect or engineer has got to include in the plans some stormwater management. You need a dry well or infiltration trench or something to get the water from the hard surfaces back into the ground water and you will need to submit that. This shows how the topography is going to work and that includes how the driveway comes down. It needs to have a low spot before it comes back to the road because you can't dump stormwater out into the route. He needs to show how he is intercepting the runoff coming from downhill and getting it around your house. We don't have any of that topographic information that he needs to provide.

Mr. Linke said are you talking a french drain or something like that?

Ms. LaDue said there is a drain culver that goes through there.

Mr. Harvey said he needs to show how he is going to grade the property so that the water goes around the house instead of hitting the back wall and doesn't cause a problem.

Mr. Morse said I did email Jason McCormick about it. I will double check that.

Mr. Harvey said while he is checking are there any comments on this application? He didn't give us any details on doing a full basement.

Mr. Horst said it is not a full basement it's just a crawl space.

Mr. Harvey said generally the Town code at least requires the appearance of a masonry foundation, so tell me about what it's going to look like.



Mr. Horst said block wall **\*\*inaudible comments\*\***.

Mr. Harvey said so is it a site constructed home or a modular?

Mr. Horst said it is a modular.

Mr. Harvey said do you have drawings? What's the roof pitch?

Mr. Horst said it 5/12.

Mr. Harvey said there are two things in our code about appearance and you have addressed them. I don't care about the color everything else is fine. It's just about the details. Are there landscaping plans? Are you going to do any foundation planning or anything of that nature?

Mr. Horst said after?

Mr. Harvey said one of the requirements, when you submit a site plan, is topography and landscaping plan so we have an idea if you are cutting anything down and what is on the property now.

Mr. Horst said not right now.

Mr. Morse said I sent the email and I know that someone reached out from his office saying that he has had a personal issue so that might be why we did have it. We do have these detailed plans submitted for the permit. We did ask Jason to send it over because we knew the Board would ask for it but we can do it as a condition. I just don't know his status.

Mr. Harvey said so the requirements in the code for foundation and roof pitch are met.

Mr. Morse said yes.

Mr. Harvey said when he does stormwater calculations on here he has a gravel driveway and that counts as a hard surface. That will need to be taken into consideration when he does his stormwater calcs. Is there any exterior lighting?

Mr. Farmer said there is a 30% for the lot coverage.

Mr. Marse said everything that they are doing meets code even with the driveway.

Mr. Harvey said just the calcs have to take that into consideration.

Mr. Morse said he will. I told him and he was part of the last project so he is aware.

Mr. Harvey said any other questions from the Board? Hearing none I will close the public hearing.

Mr. Harvey said the Environmental Assessment Form Part 2 & 3 all answers were no or small impact. Question 4 stating there are no officially established critical environmental areas in the Town. Question 8 we based our answer on the October 28, 2024 letter from the NYS Office of Parks, Recreation, and Historic Preservation saying they didn't have any concern with archeological or historic resources with regard to this project. Question 9 and 10 we based the answer on the changes to the site plan that the Planning Board will require to address stormwater management as a condition of approval.

Mr. Perry makes a motion to move Part 2 of the Environmental Assessment Form and the motion was seconded by Mr. Kestler to approve and to make a negative determination of significance. The motion was carried with all present voting aye.

A motion was made by MR. FARMER and the motion was seconded by MR. KESTLER to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

**LADUE  
RESOLUTION  
Application #97-2024**

**WHEREAS**, Michelle LaDue submitted a site application, known as the LaDue Site Plan for Summit Parkway Application #97-2024, for property located at Tax Map #127.19-4-62.000 on October 11, 2024; and

**WHEREAS**, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

**WHEREAS**, A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on November 18, 2024; and

**WHEREAS**, The Planning Board did conduct a Public Hearing at 7:30 PM on November 25, 2024 at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

**RESOLVED**, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. As-built must be submitted to the Town once construction is complete showing the location of the underground utilities including the electric.
2. Revision of stormwater calculations and facilities must be on the site plan

3. Provide a Grading Plan showing drainage of at least 2% five feet away from the house with ten feet being better.
4. Provide a Landscaping Plan showing what is proposed to be planted.
5. Add Lot Coverage calculations including the driveway to the plan.
6. All exterior lighting must be dark sky compliant.

**RESOLVED**, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

**BE IT FURTHER RESOLVED**, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

**PB #98-2024: DANIEL & JUDITH NOVAK 4773 COUNTY ROAD 11, RUSHVILLE, NEW YORK, 14544:** Requests site plan approval to construct a garage and three season room addition to the existing single family residence. The property is located at 4773 County Road 11 and is zoned R1 Residential and LFO Lakefront Overlay District.

Daniel & Judith Novak, Jonathon Jones and Brennan Marks from Marks Engineering presented the project.

Mr. Jones said the Novak's have removed their existing garage just to the south of their house. They are planning to add a new garage just to the south that will tie into a three season room that is currently being constructed. Since the three season room has a permit tonight we are here for the new garage. We were at the ZBA last Thursday for the front setback variance that was approved and tonight we are here for the garage. The garage is going to connect right into the three season room. It will be a two level garage and you will drive in on the first level. The second level will have a deck on the front portion and also storage. There will be stairs associated with the deck that will go down to the driveway. The deck and the three season room are on the same level which is the main level of the existing two story house.

Mr. Harvey said the question I have is, with the existing driveway is there any change with the width of the curb cut?

Mr. Jones said nothing is changing with the existing curb cut. We are just modifying the width of the driveway where the new garage is going to be because the existing is further

south than where the new garage is going to be. The curb cut is staying the same it's just getting modified to wrap around to the new location.

Mr. Harvey said since the curb cut is staying the same you're not violating the Town's Access Management Local Law so you are fine. I know that the parking area is a little bit bigger in dimensions, did you guys do any spot elevations on that? One of the things is we will want to document that you have a low point before you come back up to pavement on County Road 11. Your address is County Road 11 not East Lake Road. So Jon, if you have some spot elevations we can put on the plan so we can document that we are in compliance with what the County wants in terms of the grading for the driveway. I think you are fine. I just want you to document it.

Mr. Jones said yes of course that is not a problem.

Mr. Harvey said the MRB Engineer letter dated November 22<sup>nd</sup> says they would like to see a soil stockpile location and concrete washout area should be shown on the plans. I think you did address some of that using the temporary curb cut area. Silt fence and other erosion and sedimentation control measures should be shown on the site plan as erosion and sedimentation control needs will vary after demolition is completed. So they want you to talk about the staging of the project and what is in place during construction and what remains afterwards. For the infiltration trench design, do we have infiltration at a rate that equals the changes with the stormwater runoff for the design storm on this property?

Mr. Jones said yes the calculations for that should be right on the site plan. To address the other comment, we haven't seen that letter yet, we are showing stockpile, we are showing silt fence and a staging plan. So I am not sure what those comments are referencing.

Mr. Harvey said I note on the site plan there is an assumption that perc rates are greater than thirty minutes per inch. The question is, did you design the infiltration trench based on actual perc tests of that soil and what it can handle?

Mr. Jones said no we have not done actual perc tests. Normally the contractor does those when they are putting the system in so they can adjust accordingly.

Mr. Harvey said one of the things they also commented on is it is strongly recommended that a monitoring well be provided for the infiltration trench. So I would go back and forth with Collin at MRB on that and see exactly what he is talking about there. I think the Town is going to want to consider is for the stormwater facility like this the Town is going to want to make sure it continues to function as designed. We are going to look for a maintenance agreement on those. That's all I really got.

Mr. Morse said Jon, when you bring in the plans for Tom to sign can you just add the variances that were granted.

Mr. Jones said yes of course.

Mr. Harvey said and the site plans that are on here conform to the variances, correct?

Mr. Morse said correct.

Mr. Harvey said does anyone want to address this application? Hearing none are there any comments or questions from the Board?

Mr. Farmer said is your driveway concrete?

Mr. Novak said it is asphalt all the way around on that side.

Mr. Farmer said the reason I don't like the asphalt, especially fresh asphalt, is because you are right there by the lake and the runoff there is oil. If concrete is reasonable it makes a nice driveway too. It may look better than that asphalt.

Mr. Novak said I am environmental conscience as I'm sure you are but I would hate to concrete if it's really expensive.

Mr. Morse said there is another caveat to that, concrete does not hold up with all the salt right there on the shoulder of the road. I'm not trying to change your mind, Bob, because I agree with you with the oil but if you park your car in the garage with all the salt it will start to erode after a few years.

Mr. Farmers said you can seal it.

Mr. Morse said you can seal it but it doesn't last.

Mr. Harvey said yes you have to reseal it every few years.

Mr. Morse said the other one was a sport court and nobody was parking on it so that one made sense.

Mr. Farmer said people are using the pavers are they not?

Mr. Morse said we are seeing some of that.

Mr. Marks said asphalt is right around \$3.50-\$4 a square foot and concrete is about \$10.00 and I agree with Jim with the salt.

Mr. Farmer said it's a maintenance thing and a cost.

Mr. Marks said it's a personal preference.

Mr. Novak said I think the very last thing we are going to do on this project is the driveway. We are always interested in something ornate or unique, so we can explore that.

Mr. Marks said I don't recommend pavers often. The plows rip them up.

Mr. Harvey said and they have the same issue with the salt.

Mr. Morse said with this one, Tom, the County was excited to see that garage come down out of the drainage area.

Mr. Harvey said any further questions or comments? Hearing none I am going to close the public hearing at this time.

Mr. Harvey said the Environmental Assessment Form Part 2 all answers were no or small impact. Question 4 stating there are no officially established critical environmental areas in the Town. Question 8 we based our answer on the October 16, 2024 letter from the NYS Office of Parks, Recreation, and Historic Preservation saying they didn't have any concern with archeological or historic resources with regard to this project. Question 9 and 10 we based the stormwater management provisions included in the application and have to do with erosion control and flooding.

Mr. Harvey makes a motion to move Part 2 and 3 of the Environmental Assessment Form and the motion was seconded by Mr. Farmer to approve and to make a negative determination of significance. The motion was carried with all present voting aye.

A motion was made by MR. FARMER and the motion was seconded by MR. KESTLER to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

**NOVAK  
RESOLUTION  
Application #98-2024**

**WHEREAS,** Daniel & Judith Novak submitted a site application, known as the New Residence Site Plan for Daniel & Judith Novak Application #98-2024, for property located at 4773 County Road 11 on October 11, 2024; and

**WHEREAS,** The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

**WHEREAS,** A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on November 18, 2024; and

**WHEREAS**, The Planning Board did conduct a Public Hearing at 7:30 PM on November 25, 2024 at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

**RESOLVED**, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. Stormwater design needs to be verified by a percolation test.
2. Add spot elevations to verify dip in the driveway prior to going back up to the County Road.
3. Maintenance agreement will be required on the infiltration trench to make sure they maintain it.
4. Add erosion and sedimentation staging information including soil stockpile and concrete washout.
5. As-built must be submitted to the Town once construction is complete.
6. All exterior lighting must be dark sky compliant.

**RESOLVED**, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

**BE IT FURTHER RESOLVED**, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

Mr. Farmer said he would like the applicant to consider concrete instead of asphalt for the driveway.

Mr. Novak said we will consider other options since we like to be unique.

**6. MISCELLANEOUS**

Mr. Morse said has there been any thought about changing the start time of the meetings from 7:30p to 7pm?

Mr. Harvey said we had farmers on the Board previously and they wanted to start at 7:30p to be able to complete their work before the meeting.

Mr. Morse said can we change the start time to 7p the? Andrew said he is good with it.

Mr. Harvey said I am good with that as long as the rest of the Board is good with it. Let's start it at the first of the year.

**7. NEXT MEETING**

The next regular meeting of the Planning Board will be held on Monday, December 23, 2024, at 7:30 p.m. at the Gorham Town Hall, 4736 South Street.

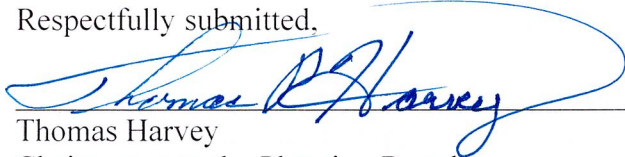
**8. ADJOURNMENT**

■ A motion was made by MR. HARVEY, seconded by MR. PERRY, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 9:01 p.m.

Respectfully submitted,

  
Thomas Harvey  
Chairperson to the Planning Board

~~L.S.~~