

# *Town of Gorham*

4736 South Street  
Gorham, New York 1461

## **PLANNING BOARD**

**Monday, June 23, 2025 7:00 p.m.**

### **MINUTES—Approved**

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*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*  
Jeremy Stowe  
Richard Perry  
Andrew Hoover  
Gabrielle Harris  
Lynn Klotz  
Jon Willis, *Alternate*

**Board Members Absent:** Bob Farmer

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

**Applicant Present:**  
None

**Others Present:**  
None

**Applicant Via Zoom:**  
None

**Other's Via Zoom:**  
None

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## **1. MEETING OPENING**

The meeting was called to order at 7:01 p.m. by Mr. Harvey.

## 2. APPROVAL OF MINUTES OF MAY 19, 2025

■ A motion was made by MR. HOOVER to approve the minutes from MAY 19, 2025 and the motion was seconded by MS. HARRIS.

Motion carried by voice vote with all present voting aye.

## 3. LEGAL NOTICE

There were no new applications received for tonight's agenda, so there was no new legal notice published for tonight's continued public hearing.

## 4. CONTINUED PUBLIC HEARING

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**PB #10-2025: ECO OPERATIONS 4611 DEWEY AVENUE, STANLEY, NEW YORK, 14561:** Requests site plan approval to operate a de-packaging facility. The project includes proposed outdoor storage with no changes to the existing structures. The property is located at 4611 Dewey Avenue and is zoned I - Industrial.

Mr. Harvey said the applicant is not here, so we may just end up adjourning the meeting again. Let's talk about what we know. We have had two long conference calls with several staff at the DEC. At the first meeting our Gorham Fire Chief joined us and at both meetings the County Emergency Management Officer joined us. Long story short, two weeks ago on Wednesday, DEC staff was onsite to do an administrative inspection. They issued him a notice of violation back in February and then an order to cease and desist.

Mr. Morse said the first notice of violation was for the spill at the site and the second one was for the landfill.

Mr. Harvey said they had a spill at the site and one of the employees blew them in to the DEC, so the DEC came and issued them a notice. Then the second time Casella, who operates the County Landfill, reported them to the DEC for hauling a truck there with recyclables and damaged hand sanitizer containers that are illegal to dump at the landfill. He got a cease and desist order because of the notice of violation. The DEC is in the process of determining if to accept the hand sanitizer to be de-packaged if that actually constitutes to a solid waste and he needs a solid waste permit to do that. The exemption, as we learned today, in the law that exists for the reclaiming and transporting reclaimed ethanol and hand sanitizer products would excuse a processor from having to file the paperwork necessary for transporting a hazardous substance. The DEC was pretty adamant that what he has done so far, including the de-packaging, does not fall under that exemption. So, they are arguing back and forth, but two weeks ago this coming Wednesday when they visited the site and immediately after leaving the site they called Jim. They called the County's Emergency Management Officer because they were concerned with the incredible quantity of material both outside the building and especially inside the building. They shared some pictures of stuff stacked floor to ceiling, clearly a violation of the building code in terms of having that much combustible material in a commercial



building without a fire detection nor a fire suppression system. The concern with the DEC and Emergency Management and Jim and the Fire Chief was that there is so much stuff in there and it's alcohol and it burns. It's not probably explosive but it will burn and if it catches on fire there is basically no way to put it out other than starving it from oxygen. There is enough quantity in that building that once it starts to go it's going to go. If you spray water on it or if you spray foam on it the problem with that is it floats on top of both of those and if you use enough it starts leaving the site. The building is also about 200 feet from Flint Creek if that far. The building was built in 1950 and we are pretty sure the floor drains, with that era construction, go right to Flint Creek. He refused them permission to dye test the floor drains.

Mr. Morse said that is when he asked them to leave the site. He allowed for them to walk through the site and that's when they noticed what was on the inside. Just so you guys know, they notified us back in January that this was going on. We didn't even know the former owner, Marchenese, had sold the building. He never notified us, so since September of last year this particular operation has been going on. He has been receiving deliveries of outdated alcohol and hand sanitizer there. The process is they are de-packaging it here and taking it to, where?

Mr. Harvey said Perry.

Mr. Morse said so region 7. They are transporting it over there and at that facility they separate it. Then it is repurposed as drinking alcohol, believe it or not.

Mr. Harvey said or industrial alcohol as a solvent.

Mr. Morse said when we found out I immediately contacted him and he and I met face to face. He said whatever I have to do and I told him that he has to go through the whole process. I knew the DEC already had concerns, so I said don't do anything. You can't operate the facility or anything until you have your Planning Board approvals. We have it in writing so hopefully that protected the Town. Even back then, we said no deliveries and that they couldn't do anything. Then he got another violation but that was for transporting it to Casella. I went over at that point and saw six vehicles, so I questioned them immediately. I said I thought you were under the understanding that you couldn't do anything. He said no, I am cleaning up because the DEC is fining me so I have to have people here to get it cleaned up. At that point we thought we were done with it. Apparently, and you guys heard him speak last time; he said that he has been receiving deliveries. I have it in an email from him that I sent to him later on Wednesday afternoon after the DEC was there and I said to him you agreed

Mr. Harvey said the quote from DEC was that cease and desist means you cease all operations and his response was I can't stop stuff that is already on its way.

Mr. Morse said he said that but then he put it in an email to us that he had ceased and desisted all deliveries, everything, back in February after receiving the notification. So we

have that in writing with the email. Obviously the other night at the Town Board meeting we retained counsel.

Mr. Harvey said Jeff Graff, the Town's attorney, has been involved. The additional counsel is who the Town has been using for litigation. The anticipation is, and we are still in the public hearing so this will be on the record, that if Jim does his inspection tomorrow at 3pm and he finds that there is a quantity of material above what is allowed by code or that it is stacked higher than allowed by code or anything else he will issue him an order to remedy. There is no real clear cut actions that he can take to remedy the situation because he can't transport it without a solid waste permit. He can't start the operation up because both the Town and DEC won't let him because they think before they are going to tell him that he does not need a permit he has to prove to them what he is doing doesn't involve any discharges. So far he has asked them to leave and he has kicked them out of the facility. He has submitted, twice, an application to the DEC for a solid waste management permit. Quote from DEC is "we have now issued him the second notice of incomplete application" and he's not even close to something that they would approve.

Mr. Morse said we have been very adamant, and I have especially, with them and the DEC that we are going to work together. We have to. I have been adamant with them that if they are going to make me do this violation notice that I don't want to put the Town on a time crunch that we are going to issue a violation and give them 30 days to clean it up and go do an inspection and they didn't. If the DEC won't give them permission to do anything with it and now the Town is on the hook with our knowledge and everything that goes on and I don't even want to tell you the amount of money they said they would need to clean the facility as it stands today.

Mr. Harvey said staggering.

Mr. Morse said you can't even imagine the amount of zero's and when I say that you would be blown away. We can't absorb that where we cite him and he's not taking care of it so we are trying to get the DEC pushed a little bit. We are trying to get the Environmental Protection agency involved and also TTB, which is Alcohol and Tobacco Tax and Trade Bureau. They are responsible for operating permits for this type of exact operation. One of the DEC agents has contacted them. They said they were good in Kings Ferry but they didn't know about this facility what's so ever.

Mr. Harvey said lets back up just a second. The other thing we didn't explain was the reason for the litigation attorney was that we are anticipating that if the order to remedy was issued and he has trouble working it out with the DEC that the Town has the ability to go not to Town Court but directly to County Court to petition for enforcement of New York State Uniform Fire Prevention and Building Code. While the Town may pursue avenues for violation of its zoning and DEC can do whatever DEC is doing with its violations the quickest way to get a court order is under the building code. There is a lot of work going on behind the scenes. Two important things that are going on is Jim stressed it at the meeting, DEC is supposedly working on it, but ok we issue the order to remedy



how is he going to fix it and what can he do. The second thing on our side is if it does come to the point where the Town is going to County Court, what is the remedy we are seeking and can the Town petition the court as the remedy to allow DEC to come in the facility and pull in their contractors to clean it up because that is where the large cost estimate came from. In DEC's mind it may be the best if the guy walked or they got a court order. DEC has actually said that might be the quickest and easiest path forward.

Mr. Morse said ultimately you are looking at this still being listed from month to month. It will probably be August or September before we get an answer. I hope it doesn't go that long but we are trying right now to get something figured out. I met with the person. You heard him online. Hopefully we can all cooperate and everyone can get our heads together and come up with a logical solution. The quantities that he put to us in an email are well over what we would allow even if he had a fire suppression system. You are only allowed to store them two pallets high. They have to be separated by, I believe, 1000 gallons in each location and there has to be a distance of 250 feet between them. There is a lot to look at because that facility over there, the only sauerkraut plant, is very weird just how all the overhead doors are and stuff like that. We are going over there tomorrow with the premises that we are looking at the application that he has before you guys but we are also looking at it to see where we are going to have to go forward to find out based on what the DEC has told us from their walkthrough. As of right now he is being cooperative with us because he wants to move forward with it.

Mr. Harvey said so let me sum it up by saying that the Town, Fire Chief, and the County Emergency Management Officer is alarmed enough that they requested, and even without that request, the County Emergency Management Officer has visited the site twice. He has droned it. They have drawn up an emergency response plan. He has actually told me that he reached out to New York State Fire and are having them review the plan. He did reach out to the Town and verified again when you use foam because right now that is still a better solution than water but the foam requires a pretty good supply of water pressure. He has verified that the hydrants there look like crap but they work and there is a lot of pressure in the line so that end of things look pretty good.

Mr. Morse said and ultimately, and you heard him say at the last meeting, and I kind of laughed when Lynn spoke up because I already talked to him about this, it's a Class 1-A flammable liquid that he is dealing with. Like Tom said it's not an explosive type thing but what it does is once it's ignited it's very hard to put out. It's a blue flame so some of the flames you can't see. We are trying to look out for the Town's best interest.

Mr. Harvey said what did they say in Monroe County, they had one or two pallets of that stuff?

Mr. Morse said three pallets went on fire and it took five hours to put it out.

Ms. Klotz said and how many pallets do you think he has?

Mr. Morse said he has over 1000 based on his email **\*\*inaudible\*\***.

Mr. Harvey said the Town's concern is we don't want to make the national headlines as "the fire that never goes out" or "Flint Creek is on fire" or whatever. All distinct possibilities. When you layer in, and I'm still going to say it, the fact that this all started with a disgruntled employee blowing them in.

Ms. Klotz said thank goodness.

Mr. Morse said well he is a Town resident. That is what the DEC told us at the first meeting that he was a concerned Town resident because he saw what was going on over there and knew about their **\*\*inaudible\*\***. Our own Fire Chief stated that he's familiar with the drains in that facility and they do drain to the creek. This is the reason why we are all trying to work together and we are even going to work with him. It's not like we are doing this all behind closed doors behind his back we are going to come up with a solution so that this doesn't all get accidentally spilled and dumped or anything like that. We are all going to have to get together and figure out a solution.

Mr. Harvey said the DEC is so concerned that again that they didn't want to wait a week for our next conference call we are having another one on Thursday morning.

Ms. Klotz said how long has he owned it?

Mr. Morse said he said September. That was his claim.

Mr. Harvey said I looked up the deed and the deed was recorded in September.

Mr. Morse said it's under an LLC. Not to get into it too much but he is the owner of that LLC. We will see. He has invited us over and I took whatever time he offered me because I didn't want the can to keep getting kicked down and him get nervous and not want anybody in there.

Mr. Harvey said so there is a couple of options for the Board. Nobody is here this evening including the applicant. We can adjourn the public hearing to be reopened next month or we can close the public hearing and readvertise it when its ripe. Right now there is no path forward. DEC we did talk about when there is a path forward that they would prefer that the Town Planning Board be the lead agency and coordinate the environmental review. Again, until DEC makes a decision whether it's just violations and they determine no matter what he does whether it's just transport the materials someplace else before it's de-packaged but even doing that he needs a solid waste permit. They haven't determined what else he might need.

Mr. Morse said I think maybe just until after this meeting we should leave it open. Even if you have to do this in July. You have a big agenda in July but even if you have to do it in July just based on the last three months we haven't received the comments or any comments back from DEC on his permits because that is pretty much why I am invited there to answer questions about the Planning Board application.



Mr. Harvey said my recollection was he submitted a short form; an environmental assessment form and I am not really convinced in a Town of this size that shouldn't be considered a Type I action. Go back to him and tell him to fill out the full environmental assessment form.

Mr. Morse said I will let him know that tomorrow.

Mr. Harvey said that's where we are, so I adjourn the public hearing until 7pm on July 28, 2025 here at the Town Hall.

## 5. MISCELLANEOUS

Mr. Morse said at the Town Board meeting the other night there was a resident on Rt 247 complaining about music at Lincoln Hill Farms. They were the ones that complained last year. I explained to them that we do watch the hours that they are done and they have adhered to all of that. We have only had the one incident that was over a year ago where it ended at 9:30pm and it was supposed to be 9pm. We did address that immediately. They might come in to ask you guys questions and about when he has to come back in for his special use to see if you would consider cutting the hours down or whatever. They were frustrated because they keep getting the same answer from the sheriff's because apparently they keep calling the sheriff's and they say they don't have calibrations for the decibel reader. He claimed to have one but didn't have any proof of it. I told him that I am aware that they have one on the sound board. I have seen them **\*\*inaudible\*\*** on a couple occasions so I know it exists so they monitor it.

Ms. Klotz said I thought they were going to be here.

Mr. Morse said they were but something came up. Before I came here tonight I dropped off, in his mailbox, he wanted a copy of all the resolutions.

Mr. Harvey said for the next meeting if you could prepare the dates of approvals so we are prepared if they come in.

Mr. Morse said a lot of it are the same questions that you addressed with the gentlemen from County Road 18. They questioned about the fireworks and the number of events.

## 6. NEXT MEETING

The next regular meeting of the Planning Board will be held on Monday, July 28, 2025, at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

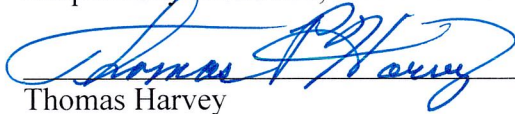
## 7. ADJOURNMENT

■ A motion was made by MR. HOOVER, seconded by MS. KLOTZ, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 7:28 p.m.

Respectfully submitted,



Thomas Harvey

Chairperson to the Planning Board