

# *Town of Gorham*

4736 South Street  
Gorham, New York 1461

## **PLANNING BOARD**

**Monday, August 25, 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*  
Bob Farmer  
Richard Perry  
Andrew Hoover  
Jeremy Stowe  
Lynn Klotz

**Board Members via Zoom:** Gabrielle Harris

**Board Members Absent:** Jon Willis, *Alternate*

**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 7:00 p.m. by Mr. Harvey.

Mr. Harvey said so, Gabe, you have the Board's permission to attend remotely. We have a quorum in the room, so we are legal with the State and the Town's video meeting policy.

## 2. APPROVAL OF MINUTES OF JULY 28, 2025

■ A motion was made by MR. HOOVER to approve the minutes from JULY 28, 2025 and the motion was seconded by MR. PERRY.

Motion carried by voice vote with all present voting aye with one abstention by MS. KLOTZ.

## 3. LEGAL NOTICE

There was no legal notice published for tonight's meeting since there was only one continued public hearing on the agenda.

## 4. CONTINUED PUBLIC HEARING

**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 only formal agenda item is to reopen the public hearing on this application. It is reopen at this time. The applicant is not here. There is a lot of stuff going on. It is probably not **\*\*inaudible\*\*** for the public hearing since the applicant is not here.

Mr. Morse said can I ask you a question on that though?

Mr. Harvey said certainly.

Mr. Morse said if we are in the situation that we are in, everyone here knows about the lawsuit, if we are in a situation like that is it out of line for the Town to pull the application until such time that it is solved?

Mr. Harvey said I would move to, because the applicant hasn't shown up for what three months in a row?

Mr. Morse said the last time he attended the meeting was in May. That is not because he is not being notified about it. He just stopped after May because that is when things hit the fan so to say.

Mr. Harvey said that is when the DEC and other agencies ended up being involved.

Mr. Morse said we don't have to do that tonight. I just wanted to put that through your mind because there is going to be other stuff to deal with like the attorney fees and etc. to be settled before they can formally move forward with that application.

Mr. Harvey said I would be in favor of not adjourning but closing the public hearing without prejudice which means if he wants to come in and reapply and pay the fee we will look at his site plan. He hasn't shown up and he hasn't communicated his intention to pursue the application. It is done and over with. Close the public hearing and his application is incomplete, unless anybody disagrees. We had a million questions for him and he hasn't come back and answered any of them.

Mr. Farmer said does it need a motion?

Mr. Harvey said that would probably be a good idea. It would be a motion to deem the application incomplete.

Mr. Farmer said I can make a motion to deem the application incomplete.

Mr. Harvey said the motion is made and seconded. The reasons that it is deemed incomplete are:

1. Identification of permits with the DEC
2. Identification of the traffic flow and control on the property
3. Identification of the storm drains
4. Accurate portrayal of what is being processed at the facility. We were told it was only hand sanitizer but we know there is lots of other stuff.
5. The quantities appear far in excess from what the Town was told
6. The Town was told it was not hazardous material and it is
7. He has never submitted a plan showing how he can store materials on the site and in the building in compliance with the building code

**ECO OPERATIONS LLC SITE PLAN  
RESOLUTION  
Application #10-2025**

**WHEREAS**, ECO Operations LLC submitted a site application, known as the Site Plan of 4611 Dewey Avenue for 4611 Dewey Avenue Tax Map #144.00-1-21.100 Application #10-2025 on April 14, 2025; 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 May 9, 2025 and

**WHEREAS**, said application to the Town of Gorham Planning Board was required to be referred to the Ontario County Planning Board; and,

**WHEREAS**, The Planning Board did conduct Public Hearings at 7:00 PM on May 19, 2025, June 23, 2025, July 28, 2025 and August 25, 2025 at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and

**WHEREAS**, the applicant was not present at the June 23, 2025, July 28, 2025 and the August 25, 2025 public hearings; therefore be it

**RESOLVED**, That the Planning Board does hereby deem site plan application #10-2025 incomplete due to the following reasons:

1. Identification of permits with the DEC
2. Identification of the traffic flow and control on the property
3. Identification of the storm drains
4. Accurate portrayal of what is being processed at the facility. We were told it was only hand sanitizer.
5. The quantities appear far in excess from what the Town was told.
6. The Town was told it was not hazardous material and it is.
7. The applicant never submitted a plan showing how materials can be stored on the site and in the building in compliance with the building code

**RESOLVED**, That the Chairman has closed the public hearing without prejudice which means the applicant can come in and reapply and pay the fee if he wishes to seek site plan approval.

**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.

A motion was made by **MR. FARMER** and the motion was seconded by **MR. PERRY** to close the public hearing without prejudice. The motion was carried with all present voted aye.

Mr. Harvey said do you want to give the Board an update on anything in regard to DEC and EPA?

Mr. Morse said really there is a lot of it that I probably shouldn't share at this point other than that we will have a meeting tomorrow. There are a few developments that we will share with the DEC tomorrow. I have spoken to the person, it is not a bank that financed it, it is a person and the previous owner. She has just become aware of the situation.

Mr. Harvey said the previous owner of this facility?

Mr. Morse said yes. They are the ones holding the mortgage. Honestly if you want my opinion he is probably abandoning the site. That is just my formal opinion. Other than that, any of the other information we do have a direct contact now to the EPA which is nice. He did submit a remedy to the DEC which was denied by the same afternoon that

he submitted it. There was supposed to be a formal meeting and the guy called me directly within forty five minutes and that included a twenty minute after conversation so they must've denied it after ten minutes. It sounded to me that what he submitted was let me operate the business until the product is gone and they were like no.

Mr. Harvey said the requirement from EPA was he had to submit a plan to clean up the site that was acceptable to EPA under EPA supervision.

Mr. Morse said they would let the DEC be the jurisdiction that reviewed it and approved it and the DEC shot it down. To my knowledge he hasn't resubmitted anything. There has been some phone calls. We did have a zoom meeting last Tuesday and we are having one tomorrow. I know Assemblyman Jeff Gallahan and Senator Helming will be on the call and the only information I will say is God help the DEC if they don't have a schedule. That is all I am going to say. They better come up with the schedule between now and tomorrow because the Town has grown very impatient with them.

Mr. Farmer said is it barrels of waste that are degrading and that would leak into the ground?

Mr. Harvey said there are containers that are broken. There's containers that are open out in uncovered materials so they are filling up with water and can overflow on the site.

Mr. Morse said it is mis proper handling.

Mr. Harvey said and mis proper storage.

Mr. Morse said there is mis proper handling of it. They are stacking bottles that are crushing the bottles and spilling. It's more like hand sanitizer. Alcohol based hand sanitizer happens to be one of the biggest ones and some of that can vary from 80% alcohol content to others but there are other chemicals in there.

Mr. Harvey said there is only so much of it you can store in one place without separating by what 200 feet from another.

Mr. Morse said he has one pallet over there that we noticed that wouldn't even be a full pallet that wouldn't even be a 200 foot separation.

Mr. Farmer said is the Town in danger of lead contamination?

Mr. Morse said no, not lead.

Mr. Farmer said alcohol contamination?

Mr. Harvey said when EPA came onsite and they did the walkthrough and the debrief afterwards one of the things they told us was well you think ethanol evaporates very quickly unfortunately when that stuff gets into groundwater, ground, or stream it doesn't

evaporate so quickly it lingers for a very long time and it is very detrimental to the environment. In regard to the fire hazard that is one thing and it is a big thing and the environmental component is also very real given the quantity of material he's got there.

Mr. Stowe said do you feel that any of that is leaking into the soil now?

Mr. Harvey said undoubtedly.

Mr. Morse said we witnessed it. It is definitely leaking into the soil and it continues to leak into the soil. There were seventeen people there and everyone witnessed it.

Mr. Harvey said oh, yeah and outside the facility you could see damp spots around and inside the building there were other pallets with fluid on the floor underneath them and leaking out.

Mr. Morse said the Town has asked the DEC why they haven't done that emergency thing in regard to that and that is why I talk the way I do about the DEC. There has been some frustration because they have the code in the DEC for emergency spill cleanup and they haven't enacted that yet.

Mr. Harvey said again I will share my conjecture on that part and it's based on a conversation I had with Assemblyman Gallahan a couple of weeks ago. He couldn't understand why DEC also hadn't responded quicker. He said we had an issue with a leaking fuel tank at a gas station up in Manchester or Clifton Springs and they were on top of that within a day. I said the difference is everybody calls it the spill fund but it's actually the petroleum spill fund that the DEC has that is funded and there is money in that. They can go and tap that for a gas station leak and they don't have anything like that for things that aren't petroleum based. Given the quantity of stuff there, again it's my conjecture solely mine, they don't want to foot the bill either.

Mr. Morse said the original estimate for the cleanup was very very very high. I don't think anybody is trying to step up to assume liability for the site until it's secure. I think that is going to be the component that has to happen before anybody feels comfortable.

Mr. Harvey said has he had his fire watch down there do we know?

Mr. Morse said no because it was part of his submittal and I haven't seen anybody there other than the site manager.

Mr. Harvey said so that is one of the questions I want to ask tomorrow because EPA put these conditions on and one of which was a twenty four hour basically security and fire watch and we haven't seen anybody down there.

Mr. Morse said well they said if his thing was denied that they were going to assist the DEC in taking over the site and that they would have to provide it and that they would just charge him for it. What I really wish is that they would just bring in the Army

Reserves which is a conversation that we have had because they put up the fence and they contain the area. We will see. Most of this, to be honest with you, is public record. It has been talked about at the Town Board meeting. The lawsuit, if anybody wants to see it, photos and all that is posted on the website. Well it's filed with the court and you can also find it on our website.

Mr. Farmer said is it Federal or State that you are dealing with?

Mr. Harvey said Federal and State. EPA is Federal.

Mr. Morse said on one call there was over forty something people. There was anywhere from seven to nine federal agencies and fifteen to twenty DEC's and probably six attorney's.

Mr. Harvey said one of the things that none of us are privy to, other than this was about a month ago, is what the State Liquor Authority is doing as well.

Mr. Morse said there are other agencies that have been involved but they don't communicate to us on what they are doing. I think everybody is kind of waiting to see what the other person is doing.

Mr. Harvey said I think once somebody takes ownership of the financial responsibility to clean the thing up then everything else will hit the fan.

Mr. Stowe said what if nobody takes ownership?

Mr. Harvey said I don't think EPA or DEC have any leg to stand on for not taking over the site.

Ms. Klotz said wouldn't it be the brownfield cleanup?

Mr. Harvey said yes.

Mr. Morse said they 100% have to. The only person that doesn't have to take ownership is the County if the taxes aren't paid and recently I found out that the taxes aren't paid. Correct me if I'm wrong Tom but the County would deny receiving the property because of the known contamination.

Mr. Harvey said we would not complete the foreclosure. Under the new foreclosure rule, that just got adopted two years ago, we the County never actually takes title to the property. We petition the court to transfer it to a new owner directly if we do a tax sale. It is a little different process now.

Mr. Morse said let's hope the DEC and the EPA will start cleanup tomorrow afternoon.

Mr. Harvey said and whoever the owner is, is going to get tangled up in all of that as well.

Mr. Morse said and that is unfortunate.

Mr. Harvey said for sure. What did they know? What didn't they know? etc. The State Liquor Authority for the quantity, even though it's expired, under Federal and State Law for the quantity he has down there it requires a warehousing permit from the State Liquor Authority.

Mr. Morse said the other thing is, talking to two agencies the Department of Health and the Liquor Authority, they told me that when you take possession of expired beer you have to poison it so it can't be redistributed as alcohol. We are trying to get the site cleaned up and out of the Town of Gorham. That is the number one priority.

## **5. MISCELLANEOUS**

Mr. Harvey said so you want to talk about Mr. Burkholder?

Mr. Morse said it's the driveway up the road if you haven't seen it. We have been working actively with the County because he put up the cow barns and Ag & Markets has been pushing us a bit getting something that helps him get tractor trailers up there. The driveway now is where he submitted when he applied for the house permit. Originally he was using the top of the hill and we said no it's not safe. Me, personally, almost witnessed a school bus accident at the top of the hill because a slow moving vehicle pulled out of the driveway there right in front of a school bus.

Mr. Harvey said he went to the Stanley Post Office and got them to deliver his mail and he put his post box out there at the top of the hill. The post office said we aren't delivering mail at the top of the hill.

Mr. Morse said he ended up moving it to the bottom of the hill but now he's finding out that they are not going to be able to get the milk trucks up there. We are working with Garrett and Chris Day from the County to try to come up with a solution. It's not in a good location anyway you look at it for a tractor trailer or milk truck in those two blind hills right there.

Mr. Farmer said where is this?

Mr. Harvey said County Road 18 just outside of the hamlet.

Mr. Morse said honestly they should probably slow the traffic down there anyways.

Mr. Stowe said they should slow it down on the whole road.

Mr. Morse said even before that house was even built there I've seen dogs get hit by cars there, near misses where horse and buggies are going over the hill and somebody goes around them on the double solid, and I've seen cars go into the gravel. The day that I was meeting Mr. Burkholder out there a car swerved around his buggy and the other car coming had to go into the gravel so that just made my point. He disagreed with me but I told him I will not issue the CofO on the house until the driveway is in a safe location for his sake too.

Mr. Harvey said he appealed to State Ag & Markets and even State Ag & Markets would not overrule the County.

Mr. Morse said I don't know what is going to happen. Tractor trailers are seventy to eighty feet long and you stack two or three cars behind it, even in the location that they are proposing, you are coming over that hill and you see that wall to stop going sixty miles per hour and that is where I disagree with the County. The County said I think we are fine we have sight distance and I said what about the stacking behind a slow moving tractor trailer. It has to go out into the other lane and swerve so there is no place to go besides ditches. It's going to be tough.

Mr. Harvey said if you want to widen the road there I am all in favor of it.

Mr. Morse said I ultimately think, and we talked about it to begin with, we kept telling him he had to be at the bottom of the hill but his son didn't want a house right across from his so that's why it's where it's at and now it's in a bad location. He is cooperating and he is working with us to try to come up with a solution. We had a near fatality there about seven years ago.

Mr. Harvey said I've seen people go around not knowing what's on the other side.

Mr. Morse said you may have an interesting application coming up for a church group using a lake house for worship services.

Mr. Harvey said on Dewey Cove.

Mr. Morse said they have been doing this for quite some time and the people have finally had enough and they are threatening to sue the Town for not acting on it. This was something that was done with Fred and when Gordie was here. I have photographs of over forty to fifty people on a lot that is 6700 square foot.

Mr. Harvey said we have to figure out if it is a Town road or not but in that R1 District places of worship are a specially permitted use. They are characterized by regular services so the second he is having regular Sunday morning services it's a place of worship and he doesn't have a special use permit. The Town probably wouldn't give him one because he has a nonconforming lot.

Mr. Morse said it is going to be really tricky because it is really not being used as a residence.

Mr. Harvey said anything else?

Ms. Klotz said what about the Dock & Moorings Law, do you know where that stands?

Mr. Morse said I do. I am on the committee. We are at the very final stages of it.

Mr. Harvey said Kevin Olvany has asked for help with shepardoning it through the SEQR process.

Mr. Morse said it ran into the snag between OGS and the DEC. The DEC still feels as though we have no authority to regulate it. They kind of said anything on that side of the mean high water mark is their call. I can tell you that you don't want the DEC to handle that because you wouldn't be allowed a lot of things.

Mr. Harvey said what's changed is with the wetland regulations all of Canandaigua Lake is considered a wetland so it's now under DEC's jurisdiction.

Mr. Morse said Kevin has been working on it. We were meeting every four weeks for a long time and we came up with a really good one and right at the very end two people who were on the committee said they didn't like it. They thought it was a lot less than they were getting before. I know that we did run into a snag with the DEC because they felt they should have an opinion.

Ms. Klotz said doesn't the Town of Canandaigua have jurisdiction over the mean high water mark out?

Mr. Harvey said no. It falls under the Office of General Services (OGS). The limited jurisdiction that the Town's have for docks & moorings is granted specifically under the navigation law and a condition of that statute when it was put in modified to add that grant of powers to the municipalities is that they all have to regulate and have the same law.

Mr. Morse said it's really strange because if you work on your break wall or anything like that type of work you need a DEC permit but if you want a dock you come back to us. There's a lack of communication. All I know is we had a really good Docks & Moorings Law that we were ready to put in place and it got stuck with DEC and OGS.

Mr. Farmer said what do you do if somebody pushes a break wall out into the water.

Mr. Harvey said you call up the DEC.

Mr. Farmer said does that define the high water mark then, the break wall once it's in?

Mr. Harvey said once it's in. To finish the jurisdiction discussion it originates from anything beyond the mean high water mark is held in trust by the State of New York for the people of the State of New York. It is public ownership.

**6. NEXT MEETING**

The next regular meeting of the Planning Board will be held on Monday, September 22, 2025, at 7:00 p.m. at the Gorham Town Hall, 4736 South Street.

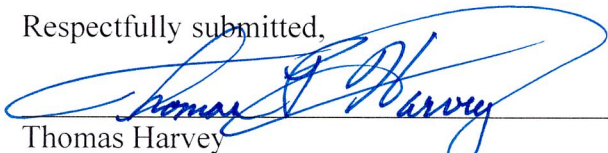
**7. ADJOURNMENT**

■ 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 7:33 p.m.

Respectfully submitted,

  
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Thomas Harvey  
Chairperson to the Planning Board