

**GILMANTON PLANNING BOARD**  
**THURSDAY, JANUARY 11, 2007**  
**ACADEMY BUILDING**  
**MINUTES OF MEETING**

**Present:** Chairperson Nancy Girard, Vice-Chairman John Funk, Selectmen's Representative Ella Jo Regan, Felix Barlik, Dan Hudson, Doug Isleib, David Russell, Alternate Members David Clairmont, Pamela Fecteau, Marty Martindale; and Planning Administrator Lynne Brunelle.

Chairperson N. Girard opened the meeting at 7:05 p.m. and explained public hearing procedures. She also explained that the public hearing originally scheduled for the Subdivision Regulation amendment will not be held this evening due to the fact that the newspapers were unable to publish the notice in the required time limitation, as it was the Martin Luther King Holiday weekend. Therefore, the Chair did not open the public hearing. Members of the public had questions pertaining to the amendment and the Chair informed those present that the Board could not take any questions outside of a public hearing; and the Board will ensure that it will be published in the appropriate time frame when the amendment is ready to be reposted.

**ACCEPTANCE OF MINUTES:** The Board members reviewed the minutes from the December 14, 2006 meeting. **Motion:** E. Regan moved to approve the minutes of 12/14/06 meeting as amended, seconded by D. Isleib. Motion carried 6-0.

**CONTINUED PUBLIC HEARING – Susan Hoodlet & Mary Purcell:** Request to Subdivide Town Tax Map/Lot #51-15, of 5 acres, into two lots of 1.55 & 3.44 acres each. Property located at 788 Stage Road in the Village Zone; Application PB#2906.

Paul Darbyshire, L.L.S. was in attendance representing the applicants, who were also in attendance. The updated plan depicts topos, soils, lot sizing information, wetlands delineation, building and wetlands setbacks, test pit information, existing driveway, house, septic and well locations, as well as proposed septic and well locations. He presented a copy of the State of NH DES Subdivision Approval, which he received today.

At the last meeting, the Board had scheduled a Site Walk, which was taken on Saturday 12/16/06. Two septic locations were staked out; one toward the front of the lot, in front of the proposed house, and one behind the house. Both met all setbacks; however, those onsite agreed that the site near the road was more appropriate than the other, which was closer to the river. Mr. Darbyshire agreed that it was a better site, however, it would need to be built up approximately four feet.

D. Hudson addressed the proposed shared driveway and suggested that it also be built up to meet the height of the road. He also suggested that a platform be created near the road in order to facilitate better site distance.

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D. Clairmont questioned how this might affect the grade of the driveway. The Board members referenced Section VI.B.12. of the Subdivision Regulations requiring that the maximum grade of the first 50' of a driveway shall not exceed +/-3%. Therefore, the applicant must take this into account when creating the platform.

J. Funk inquired about the required minimum 30,000 square foot area to be shown on the plan and asked if setbacks were included in the calculations? Mr. Darbyshire responded that a waiver request was submitted regarding the exclusion of the setback areas when calculating the 30,000 s.f. area requesting that only the wetland setback be applied. The area for Map/Lot #51-15 (existing) is 33,662 and 36,705 s.f. for proposed Lot #51-15-01.

F. Barlik asked if the septic has to meet a setback from the road? Mr. Darbyshire responded yes, ten feet.

J. Funk stated that by looking at the contours, it appears that there is a continuous slope to the river. Mr. Darbyshire indicated that the topography is gently sloping and there is a distinct vegetative buffer to the river.

D. Hudson noted that the previous plan didn't show the soil types and asked if this one does; and if so, what are their composition? Mr. Darbyshire stated that the parcel is made up of mostly the same soil; Croghan, which is a loamy fine sand. The other is Chocurua, which is located toward the river and is a mucky peat.

J. Funk recalled that at the last meeting there was discussion regarding the fact that the proposed boundary line was in the vicinity of the Village/Rural District boundary line and the plan notes only reference the Village Zone. Mr. Darbyshire will update the plan with the requirements of both zones seeing that the existing lot lies within the Village Zone and the new lot is in the Rural Zone.

**Motion:** J. Funk moved to close the public hearing, seconded by E. Regan. Motion carried 6-0.

Having no other public hearings on the agenda, the Board decided to address the decision on the subject application at this time. The Board members deliberated the following items they believed were important and should be incorporated into the decision. The septic shall be located in front of the house, the driveway shall be built up to create a platform, the plan notes shall be amended to include the requirements for the Rural Zone.

**Motion:** J. Funk moved that in accordance with Section III.A. of the Subdivision Regulations, the Board made the following findings that there would be no adverse impact on:

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- (1) The adequacy of water supply, drainage, sewage disposal and streets;
- (2) The ability of the Town to provide street maintenance and snow removal, schools, fire protection and other services without excessive expenditure of funds;
- (3) The provision for the harmonious development of the town and its environs;
- (4) The preservation of wildlife habitat, natural and man-made features and open space;
- (5) The character and use of land and buildings in the general vicinity of the proposed subdivision; or
- (6) The impact of the proposed subdivision on the character of the town as a small rural community and on the town's well-being, prosperity and sound financial condition.

E. Regan seconded the motion, vote passed 6-0.

**Motion:** J. Funk moved that for purposes of calculating whether the proposed lots in the subdivision meet the minimum requirements in accordance with Section VI.C.2. of the Subdivision Regulations, the Board waive the front and side building setback exclusion from the 30,000 square foot requirement. Therefore, only the wetland setback exclusion shall be applied. D. Russell seconded the motion and discussion occurred regarding how the Board has interpreted this regulation in the past and the purpose of the waiver. J. Funk stated that the reason for the amendment is to clarify the application of the regulation until it can be redrafted and the regulation amended. A vote was taken and the motion carried 6-0.

**Motion:** J. Funk moved to accept the application as complete and to grant conditional approval as it appears to meet all the technical details of the Ordinances and Regulations of the Town of Gilmanton. The conditions of approval are as follows:

Conditions to be complied with or secured (as appropriate) prior to the plan being signed and recorded. No site improvements shall commence and no building permits shall be issued until the plan is signed and recorded.

1. All required Town, State or other agency permits shall be filed with the Town prior to the recording of the plat or issuance of a Building Permit.
2. Submission of final plans in accordance with Town Ordinances and Regulations: (a) the final plan shall depict the contiguous 33,662 s.f. area for Lot #51-15, and the contiguous 36,705 s.f. area for Lot #51-15-01. (b) Note #7 on the plan shall be amended by adding the requirements for the Rural Zone. (c) the final plan shall be stamped and signed by the Certified Wetlands Scientist.

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3. A compliance hearing shall be held by the Board prior to signing the plans, and prior to the approval becoming final, to determine if any conditions of approval are beyond administrative in nature or would require discretion on the part of the Board or staff to confirm that conditions have been complied with.
4. The applicant is responsible for the payment of any fees required by the Belknap County Registry of Deeds for recording the plan and/or any conditions of approval.

Construction conditions to be complied with subsequent to the plan being signed and recorded:

5. All utility and road construction shall be carried out under the provisions of the Town Ordinances and Regulations unless otherwise agreed to by the Town.
6. The existing driveway located on Lot #51-15 shall be elevated and graded so that there is a driveway platform of at least 25' long, not to exceed  $\pm 3\%$ , to facilitate site distance requirements and public safety. Additionally, the Board recommends that the septic system for Lot #51-15-01 be placed on the portion of the lot nearest to Stage Road.
7. Property owner shall install all required traffic control, fire, life safety and health facilities and systems required by the Board and/or by other applicable Codes and Regulations.
8. All temporary erosion control facilities to be removed upon attaining permanent stabilization.

General conditions to be complied with subsequent to the plan being signed and recorded:

9. No clear cutting shall be conducted on the rear boundary of Lot #39-21-00 in the vicinity of the steep slope to avoid erosion that could adversely affect the wetlands on the abutting lot.
10. No changes shall be made to the approved plans unless application is made in writing to the Town. Minor changes may be allowed following review by the Planning Board. Major changes may be allowed after review by the Planning Board at a public hearing and abutters shall be notified.

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11. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSA's.

D. Isleib seconded the motion, vote passed 6-0.

**INFORMAL DISCUSSION – Paul M. Darbyshire L.L.S.:** Discuss Preliminary Plan for Boundary Line Adjustment and Subdivision of Tax Map/Lots #04-30 & #04-31-01 located on Sargent Road in the Rural Zone.

Paul Darbyshire, L.L.S. was in attendance to present the preliminary plan for a Boundary Line Adjustment between Dayne Thompson and Tom Reed and then Subdivide a four-acre lot from Dayne's 15-acre lot. The plan also shows a right-of-way (ROW) located on Lot #04-31-01 to be established for the Reed's to access their backland. This is an existing road currently accessing the gravel site. Mr. Darbyshire continued that the proposed plan will depict wetlands delineation, soils, topos, and test pit information.

Discussion occurred regarding whether the ROW should be made part of the Boundary Line Adjustment and/or Subdivision approval. Mr. Darbyshire stated that the intention is not to seek the Board's approval pertaining to the ROW. He is incorporating it into this plan so that it may be cross-referenced on the deed granting the ROW that will be recorded in conjunction with the plan.

D. Isleib asked if the proposed lot meets the 4:1 ratio requirement. Mr. Darbyshire responded that the frontage of the new lot is 200' and the depth is 780'; therefore, it just meets the requirement.

At this time, F. Barlik broached the subject of the restoration and reclamation of the gravel site, located on Lot #04-31-01. He reported that he was on site the previous week and described the area, which was supposedly restored, contained no topsoil, no mulch, and no soil retention or erosion control. Because of this, any topsoil that had been applied had run off into the wetlands.

Planning Administrator Lynne Brunelle reported that she was also on site on 12/28/06, accompanied by Bob Flanders, Code Enforcement Officer, and Nanci Mitchell, Chair of the Gilmanton Conservation Commission (GCC) and viewed the same. She continued that the Planning Board performed a Site View on 10/12/06 and observed what appeared to be newly placed topsoil; however, the area was not mulched nor was there any evidence that it had been seeded. The Board also noted that there was no form of erosion control or stabilization at that time. Lynne contacted James Locke Sr., CEO at NorthEast Earth Mechanics, and informed him that these items were outstanding, in addition to the fact that the Road and Restoration Bond was due for renewal before 10/28/06. This information was reiterated in a letter to NorthEast Earth Mechanics dated 10/27/06.

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On 11/8/06, Bob Flanders revisited the site and confirmed that the grass seed was not established, nor was the area mulched or stabilized, or any erosion control measures in place. On 11/15/06, Lynne contacted Mr. Locke to inquire about the status of the Restoration and Road Bond, as well as to discuss the lack of appropriate restoration efforts. Mr. Locke informed her that he was “semi-retired” and had referred the letter to his son, Jim Locke Jr., who would call her back; which he never did. Finally, after several attempts to contact Mr. Locke Jr., Lynne made contact with Susan Tiede, Vice President of Finance at NorthEast Earth Mechanics, who faxed a letter on 11/21/06 indicating that the insurance company was in the process of preparing the bond. At long last, the bond was received in the office on 12/8/06.

James Locke Sr., CEO of NorthEast Earth Mechanics, was in attendance and explained that when he first heard from Mrs. Brunelle, he referred the matter over to his son because he was leaving for Florida. He has not been on the gravel site and therefore could not comment on the conditions; however, it was his understanding that they had placed topsoil and seeded the area in the fall.

**REQUEST TO RENEW EXCAVATION PERMIT – A. E. Mitchell:** Request to Renew Excavation Permit for Gravel Operation on Town Tax Map/Lot #40-28 located on NH Route 106 in the Business Zone; PB#2098.

Mr. Mitchell was not in attendance; however, he is requesting to remove the same amount of material as the last two years, which is 10,000 cubic yards. His intent is to finish removing what is currently being stockpiled and then create an industrial site.

N. Girard requested that this be incorporated into the record because she heard that Mr. Mitchell intends to create a multi-family site or subdivision. Lynne responded that Mr. Mitchell contacted her a few years ago and discussed the possibility of creating senior housing, but it would have been hindered by the limited number of building permits as per the Growth Management Ordinance. Furthermore, as per Article IV, Table 1 of the Zoning Ordinance, Multi-family Dwellings (new construction) are not permitted in the Business Zone; however, a Rest Home/Convalescent Home would be permitted by Special Exception.

At this time, the Board members referenced the Earth Excavation Regulations. The Board was hesitant to renew the permit without an inspection. Lynne informed the Board that in the past, the Board has granted the renewal contingent upon an inspection by the Code Enforcement Officer. The Board asked Lynne to contact Mary Pinkham-Langer at the State of NH DRA and obtain last year’s report, as well as a written report from Mr. Mitchell regarding his intentions for the property. She will also ask Code Enforcement Officer Bob Flanders to perform a site inspection and provide a report for the Board.

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Lynne will inform the Board when the site inspection will occur so that any Board members interested in accompanying Bob may do so. GCC Chair, Nanci Mitchell, expressed interest in attending.

**Motion:** J. Funk moved that the Planning Board renew the Excavation Permit for A. E. Mitchell Corporation with the contingency that the Code Enforcement Officer performs a site inspection. E. Regan seconded, motion carried 6-0.

**ADMINISTRATOR'S REPORT**

**Crystal Ridge LLC Open Space Subdivision:** Planning Administrator Lynne Brunelle informed the Board that she accompanied Code Enforcement Officer, Bob Flanders, and GCC Chair, Nanci Mitchell, on a site inspection of Crystal Lake Farm, property of Kurt Rague and Sylvain Goulet, located on Crystal Lake Road. She referenced a memo from Mr. Flanders to the Board outlining his recommendations prior to acceptance of a final plan. These items include but not limited to: site work being performed prior to final plan being approved, filling/relocating/creating wetlands, wetlands therefore need to be redelineated, after-the-fact permitting by the State of NH DES, inaccurate culvert sizes, road work being performed prior to plan being approved and prior to road engineer performing a site inspection, sedimentation and erosion control plan not in place.

The Board discussed the fact that the Conservation Easement language still needs to be finalized and accepted by the Conservation Commission, Board of Selectmen, and Planning Board. Furthermore, the subdivision must be approved and recorded before the Site Plan Review can go before the Zoning Board (ZBA) for a Special Exception. Lynne reminded the Board that there was a Joint Hearing scheduled with the ZBA for next Thursday 1/18/06. N. Girard asked Lynne to contact ZBA Chair Betty Hackett and explain the reason why there cannot be a Joint Hearing next week.

The Board agreed to sit down with the applicant, his surveyor, engineer and soil scientist and address the issues of concern. This Work Session was scheduled for Wednesday 1/31/07 from 7 to 9 p.m. Lynne will contact all of the above, as well as invite GCC Chair Nanci Mitchell and Bob Flanders.

**Potential Zoning Amendments:** The Board members reviewed a list of potential amendments to the Zoning Ordinance, which included: updates to the Building and Electrical Codes; the establishment of a Floodplain Management Ordinance that will qualify the Town for enrollment in the National Flood Insurance Program; a clarification that the frontage or point of access of a lot shall determine the applicable Zoning District; and an amendment to protect surface and groundwater by requiring that an existing septic system be evaluated whenever a structure is being improved to determine the adequacy of the existing system for the current and/or proposed uses. A Public Hearing was scheduled for Wednesday 1/24/07 at 7 p.m. with another potential hearing on Tuesday 2/6/07. Both will be held at the Academy.

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**2006 Annual Report:** Lynne informed the Board that the report for the 2006 Town Report is due 1/22/07. Lynne will update last year's report and forward it to N. Girard and J. Funk for review prior to submission.

**Hamel Subdivision:** Lynne reported that the final plans for the Hamel Subdivision have been received and will be signed by the Chair tonight.

**Justin Caldon Resignation:** Lynne informed the Board that she finally received a letter of resignation from Alternate Member Justin Caldon. She indicated that this does not create a new position, as the Selectmen recently appointed Alternate Member Marty Martindale.

**ADJOURNMENT**

On a motion made by D. Russell and seconded by E. Regan, vote passed unanimously. Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Lynne R. Brunelle

*The minutes were approved by unanimous vote at the Planning Board's 2/8/07 meeting.*