

TOWN OF GILMANTON PLANNING BOARD
THURSDAY, NOVEMBER 13, 2008
ACADEMY – 7 p.m.
MINUTES OF MEETING

Present: Chair Nancy Girard, Selectmen's Representative Don Guarino, Dan Hudson, Marty Martindale, and Planning Administrator Lynne Brunelle.

Absent: Vice-Chair John Funk, David Russell, Alternate Member Pam Fecteau

Chair N. Girard opened the meeting at 7:04 p.m. and introduced the Board members.

ACCEPTANCE OF MINUTES: The Board members reviewed the minutes of the 10/9/08 meeting and minor corrections were made. **Motion:** D. Hudson moved to accept the minutes of 10/9/08 as amended, seconded by M. Martindale. Motion carried vote 4-0.

PUBLIC HEARING – Paul L. DeForest: Site Plan Review to establish a Contractors Yard on Town Tax Map/Lot #405-04, of 25 acres, located at 8 Grant Hill Road in the Rural Zone; PB#1608.

Paul DeForest was in attendance to present the proposed plan. He stated that on 9/18/08 the Zoning Board of Adjustment (ZBA) granted a Special Exception for a Contractor's Yard. He explained that the 30' x 70' building on site used to be the old Twigg auction barn which he relocated from Province Road. He pointed out the areas on the plan currently being used for the outside storage of lumber, stone, trailers, and firewood. There is no plumbing or electricity running to the site and uses a generator and a portapotty.

N. Girard referenced the staff report indicating that the Gilmanton Conservation Commission (GCC) has concerns regarding the wetlands on site. Mr. DeForest responded that there are no wetlands where the building is located. It is 75' to the brook and the edge of the gravel/wet area.

N. Girard asked if the ZBA already made a decision, and if so, did they perform a Site Walk? Planning Administrator Lynne Brunelle indicated that the ZBA granted the Special Exception and assumed that the ZBA performed a Site Walk. However, she indicated that typically, the ZBA does not do this as a Board, but individually; which may be misleading or confusing if you don't know what you're looking at.

GCC Chair Nanci Mitchell stated that the Commission would like to accompany the Planning Board on their Site Walk, scheduled for Saturday 11/22/08 at 9 a.m. Mr. DeForest asked the Board members to keep in mind that it has been an exceptionally wet year; therefore, the site is a bit muddy. N. Girard asked Lynne to please invite the ZBA, GCC, the Code Enforcement Officer, as well as the other Planning Board member not in attendance. Lynne informed the Board that she would not be able to attend the Site Walk as she will be out of state that weekend. N. Girard offered to take notes.

D. Hudson asked what kind of trailers would be stored behind the building? Mr. DeForest responded that he has a flatbed, an aluminum horse trailer and a 14' dump trailer, and that only two of the three would be parked there at one time.

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

N. Girard asked about the generator. What does it run on and is there any concern if it would leak fuel? Mr. DeForest stated that the generator is located on a concrete block and is run off the farm tractor using a power take-off.

N. Girard asked about the porta-potty on site. Mr. DeForest stated that he doesn't use it that often but it is serviced regularly and offered to provide the service receipts, if necessary.

N. Mitchell conveyed that although she hasn't seen the site, she has reviewed the Natural Resource Inventory (NRI) and the NH Fish & Game Wildlife Action Plan (WAP). These maps depict wetlands on either side of the stream and very poorly drained soils throughout the site. The WAP categorizes this area as Tier II, described as the most important habitat in the biological region. N. Girard assured her that the Board would not take action on this application tonight because of the Site Walk.

Bob Harris, abutter, referenced the proposed plan and stated that he would like the word "shop" removed from the description "storage building/shop". The reason for this was because when Mr. DeForest got his building permit, it was not posted so Mr. Harris contacted Building Inspector Bob Flanders and informed him of the wetlands onsite and expressed his concerns regarding the potential use of the metal building. Mr. Flanders assured him that the building was for storage only, but since then Mr. DeForest has been using it for commercial purposes without the appropriate approvals. Mr. Harris continued that if this building were constructed in the Business Zone it would be required to have water and electricity, but the building as it stands has neither.

Eric Harper, abutter, stated that just because the building has three garage doors doesn't mean it's for a commercial use. It was built in accordance with the town's building specifications and it shouldn't be an issue whether Mr. DeForest has a shop in it or not.

Mr. DeForest conveyed that he works out there every couple of months or so, it doesn't create any noise, and it's just a neighbor issue.

Mary Beth Harris, abutter, stated that she moved to Gilmanton to live in the country and now she has a 30' x 70' metal building with three bays and an office right across the street. She continued that the other day he was grinding metal and there was noise coming from the site.

Mr. Harris presented the Board with photographs of the site including the generator, the metal building/barn, firewood, chimney, porta-potty, etc. N. Girard asked Mr. Harris if he would provide the Board with a set of pictures for the file. He agreed.

Mr. DeForest informed the Board that the generator runs by a power take off from his farm tractor and that there is not an office inside the building. Mr. Harris stated if Planning Board takes a Site Walk they should go inside the building to see if what is there meets what was applied for.

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

N. Girard would like to have the Planning Board, Conservation Commission, Zoning Board and the Code Enforcement Officer on site at the same time, in order to ask the same questions and get the same answers.

Motion: M. Martindale moved to continue the public hearing for PB#1608 until the next regularly scheduled meeting on December 11, 2008. D. Hudson seconded, motion carried 4-0.

PUBLIC HEARING – Paul A. & Marlene L. Osborne: Boundary Line Adjustment to transfer 2.232 acres & 205' of road frontage from Town Tax Map/Lot #414-09 to Town Tax Map/Lot #410-38, and transfer 3.018 acres from Lot #414-09 to Lot #410-38. Property located at 53 Seibel Road in the Rural Zone; PB#1708.

Jeffrey L. Green, L.L.S. was in attendance to present the proposed plan. He explained that the proposal is essentially to provide frontage to Lot #410-38, which is land-locked. Both lots are owned by the Osborne's and their intention is to sell Lot #410-38 to Marlene's brother so that he can eventually build a house and move back to Gilmanton. The Osborne's currently reside in the house located on Lot #414-09 and have a recent building permit to replace it with a new single family dwelling. It was noted that both lots have frontage on Seibel Road, a Class V Road, and the Class VI portion of Howard Road runs through the properties.

Therefore, 3.018 acres will be transferred from Lot #410-38, of 10.81 acres, to Lot #414-09, of 36.13 acres, 2.232 acres of which will be transferred to Lot #410-38, as well as 205' of road frontage. The final acreage amounts will be: Lot #410-38 = 10.023 acres and Lot #414-09 = 36.92 acres.

D. Guarino referenced the Town's Subdivision Regulations regarding the 4:1 ratio requirement and irregularly shaped lots. He noted that as per the staff report, Lot #410-38 exceeds this requirement by about 300'. He suggested that if the boundary line were to remain at the stonewall and an additional 100' of road frontage is provided, then the lot would be exempt from the requirement. He continued that he is not comfortable with the Board continually granting waivers when there is a simple solution.

Mr. Green explained that they are not creating a new lot and the purpose of the design is to provide road frontage. N. Girard indicated that this issue was addressed at the Informal Discussion and the Board agreed that since the reason for the irregular shape was for purposes of providing a land-locked lot road frontage, that the waiver was acceptable.

D. Guarino asked Mrs. Osborne if she would object to redrawing that line in order to meet the requirement or was there another reason? Mrs. Osborne responded that there is another reason for this; they want to subdivide another lot for their daughter some day. There will be approximately 600' of frontage remaining on Seibel Road, and the minimum frontage required for each lot is 200', and the Osborne's don't want to risk cutting it too close and jeopardize subdividing an additional lot in the future. D. Guarino stated that this is a good enough reason for him to justify the waiver request.

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

Motion: D. Hudson moved to close the public hearing for application PB#1708. D. Guarino seconded, motion carried 4-0.

INFORMAL DISCUSSION – Paul Darbyshire, LLS, for Joseph LeBlanc: Preliminary discussion regarding Open Space Subdivision of Town Tax Map/Lot #423-67 of 88 acres into four lots located at 339 Loon Pond Road in the Rural Zone.

Paul Darbyshire, L.L.S. was in attendance to present a preliminary plan for an Open Space Subdivision of 88 acres and 447' of frontage on Loon Pond Road. Also in attendance were Joe and Josephine LeBlanc, property owners, and their son Joe. Mr. Darbyshire explained the proposal includes placing approximately 40 acres of backland into a conservation easement. This abuts two other properties having conservation values: a 24.5-acre lot which has a conservation easement and another 26-acre lot which is town-owned conservation land. He continued that the four building lots would be approximately 11 acres each with shared driveways and utilizing the reduced road frontage of 75'. This would create a situation where the lots would exceed the 4:1 width-to-lot ratio, but he's not sure if this requirement applies to lots in an Open Space Subdivision anyway.

N. Girard asked if the applicant intends to build three more houses? Mr. LeBlanc responded that there are four in the family and each want to build a house. He stated that he owns the existing mobile home located on the property and there is also an old two-bedroom cape. They're hoping to place a lot line between the two structures. Mr. LeBlanc referenced the previous Informal Discussion with the Planning Board on August 14, 2008 and stated that he would like to live in the mobile home for a couple of years and get back on his feet until he could build a new house. He continued that the other the other family members want to keep the old house and understands that the two dwellings cannot remain on the same lot. He also mentioned that they may want to further subdivide in the future and was informed that any additional lots would have to be considered at this time. The total number of building lots would depend upon the amount of buildable land determined by a survey.

N. Girard conveyed that she likes the idea of shared driveways especially on Loon Pond Road, which has recently been discovered as a shortcut and can be quite busy. D. Guarino expressed concern regarding the irregularly shaped lots and thinks the LeBlanc's would be better off with a private road going into the property.

Discussion occurred regarding the pros and cons of constructing a private road versus shared driveways. Lynne reminded the Board that a common driveway cannot serve more than two houses; therefore, the applicants might be better off to build a private road to the reduced road standard of 16'-wide gravel, which would result in only one road cut off Loon Pond Road.

The Leblanc's do not think that everyone will be building at the same time and the thought of constructing a road then having to establish a homeowner's association/maintenance agreement is overwhelming. They think they'd be better off with the two shared driveways.

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

GCC Chair Nanci Mitchell expressed her thoughts that an Open Space Subdivision should result in the best conservation values, and the potential easement to the back of this property has a pond, a significant wildlife habitat and it abuts other conservation land. Nanci continued that this would be beneficial to the town, but suggested that the applicant have some surveying performed first and then return to the Board. She also presented a form prepared by the Conservation Commission to assist applicants in drafting their easement language.

INFORMAL DISCUSSION – Zoning Ordinance Article VII: Preliminary discussion of possible changes to Article VII and other potential Zoning Amendments in anticipation of 2009 Town Meeting.

L. Brunelle conveyed that she spoke with members of the ZBA regarding whether changes should be made to Article VII. Their opinion was that the ZBA has not had enough applications thus far to really be able to work with the language adopted by Special Town Meeting on July 22, 2008. It was the consensus of the ZBA that they need another year to apply the new language before any proposed amendments are considered. Lynne conveyed comments received from the Code Enforcement Officer that he has concerns regarding conflicting language between Article VII and Article IX.B.2.e. as it pertains to granting Special Exceptions and meeting the setback requirements of Article IV, Table 2.

The Building Inspector also wanted to inform the Board that he will be proposing a Warrant Article updating the International Building Code to 2009, the National Electric Code to 2008 and the International Residential Code to 2008. Lynne will review the language of the previous Warrant Article updating these codes to determine whether each update needs to go to Town Meeting vote. N. Girard stated that she would like to see this town adopt a LEED Rating System, which is Leadership in Energy and Environmental Design or the construction and operation of high performance green building. She will try to provide the Board with more information on this subject for future work sessions.

GCC Chair Nanci Mitchell provided a handout regarding having a Wildlife Habitat and Natural Resource Protection Audit performed to review the Town's Master Plan, Zoning Ordinances, Site Plan and Subdivision Regulations with respect to 25 topics pertaining to wildlife habitat and natural resources. The Board members reviewed the handout and thought it was a good idea. N. Girard asked Lynne to get more information on how to go about having an audit performed.

DELIBERATION – Osborne Boundary Line Adjustment:

The Board members agreed that the reason for requesting waivers of the regulations regarding irregularly shaped lots and the 4:1 ratio requirements are justified because the applicant's wish to subdivide another lot for their daughter in the future. D. Hudson thinks that it is more conforming than it appears because there is 200' at the road and then it narrows to 100' at the stonewall, and if the purpose of the Boundary Line Adjustment is to provide access to the Class V Road, this is plenty wide enough to accommodate a driveway. All agreed and the following decision was rendered:

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

Motion: D. Hudson moved that the request to waive Section III.C.1.d.f.h. of the Subdivision Regulations requiring that all property lines, water courses, rock ledges, woods roads and trails, the location of perc holes and test pits, soils types, elevations, contour intervals, the location of septic systems and wells be shown on the plan be granted because one lot is already developed, the other exceeds ten acres, and no new lots are being created. M. Martindale seconded, motion carried 4-0.

Motion: D. Hudson moved that the request to waive Section VI.C.i.j. of the Subdivision Regulations regarding irregularly shaped lots and the 4:1 width-to-lot ratio requirement be granted because the pre-existing lots are already irregularly shaped and the reason for the boundary line adjustment is to obtain road frontage. M. Martindale seconded, vote passed 4-0.

Motion: D. Hudson moved to accept the application as complete and grant conditional approval as it appears to meet all the technical aspects of the Ordinances and Regulations of the Town of Gilmanton with the following conditions:

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. Submission of final plans in accordance with the Town Ordinances and Regulations with the exception of any waivers that may have been granted.
2. The Board agreed to grant the request to waive Section VII.C.2. of the Subdivision Regulations regarding the 4:1 width-to-lot ratio based on the following:
 - (a) it provided a land-locked lot with the required 200' of road frontage;
 - (b) the strip of land ranges in width from 100' to 200', which is more than adequate to accommodate a driveway;
 - (c) if the Board were to require that additional frontage be transferred in order to meet the 4:1 ratio, it may impede future subdivision of a lot for the applicant's daughter; and the Board concurs with keeping future generations in Gilmanton.
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 further review by the Board and/or staff.
4. Final plans will not be recorded until the transferring deed is also ready for recording.
5. The applicant is responsible for the payment of any fees required by the Belknap County Registry of Deeds for the recording of the approved plan and/or any conditions of approval.

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

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

6. 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.
7. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSA's.

M. Martindale seconded, motion carried 4-0.

ADMINISTRATOR'S REPORT

NorthEast Earth Mechanics Gravel Site: Planning Administrator Lynne Brunelle reported that Code Enforcement Officer (CEO) Bob Flanders visited the gravel site located on Sargent Road accompanied by Mary Pinkham-Langer from the State of NH DRA-Gravel Division. The purpose of the inspection was to determine whether the applicant had met the conditions of the reclamation plan. At its May 8, 2008 meeting, the Planning Board had voted to call the restoration bond for the gravel site. Lynne explained that she had contacted Town Counsel, as well as the Local Government Center (LGC) on how to proceed. She was advised that once the CEO determined that the restoration did not meet the reclamation plan and the Planning Board agreed to call the bond, it was up to the Board of Selectmen to contact the insurance company to pursue the bond. Lynne explained that she addressed this issue with Town Administrator, Tim Warren, several times and had forwarded a memo to the Selectmen. In October, Bob Flanders decided that the town had missed the window of opportunity to call the bond and therefore contacted Ms. Pinkham-Langer for advice. She believed that the site had been restored to the minimum standards of the plan; however, the site was revegetated and stabilized, and that was all the town could do at this point in time.

Crystal Lake Farms Update: Lynne updated the Board on payment of an invoice for the town's third party engineer, Hoyle, Tanner & Assoc. (HTA) in the road plan review for the Crystal Lake Farms Subdivision. Lynne explained that Mr. Rague had an agreement with the Town to pay two installments of \$5,000 for purposes of retaining HTA to review their road plans on behalf of the town. The second installment is due and was requested by the Selectmen in order to pay the invoice and Mr. Rague delivered a check in the amount of \$217, which was only enough to cover the balance due on the invoice. In the meantime, Mr. Rague would like to have the final plan signed and recorded; however, the town has not received a final report from HTA. The Board agreed that the final plan cannot be signed until Mr. Rague pays his part of the agreement by submitting the second \$5000 installment in order for HTA to complete their plan review.

2009 Budget: The Board members reviewed the budget request for next year, and as it does every year, the subject of whether Lynne should be considered as full-time was addressed. It was decided that since the Selectmen have requested that the 2009 Budget requests not exceed 3% or be level-funded, that it was probably not a good year to propose this. As last year, the Board addressed whether the LRPC dues of close to \$3,000 should be reconsidered. The Board members agreed that besides mapping, we haven't used LRPC services very much and it was decided to cut that line item.

Town of Gilmanton Planning Board
Thursday, November 13, 2008 Minutes

Discussion occurred regarding the Wildlife & Natural Resource Audit and how we could use the \$3,000 to possibly pay an intern to perform the audit. Lynne will look into this suggestion. The Board agreed that the audit would make a nice addendum to the 2005 Master Plan Update.

OTHER BUSINESS

Advertise for Board Members: N. Girard noted that once again this evening, there was the chance that there would not be enough members in attendance to achieve a quorum. She asked Lynne to request that the Selectmen advertise for Alternate Board members.

ADJOURNMENT

On a motion made by M. Martindale and seconded by D. Hudson, vote passed unanimously. Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Lynne R. Brunelle

Minutes were approved by majority vote of the Planning Board at its 12/16/08 meeting.