

TOWN OF GILMANTON PLANNING BOARD
TUESDAY, DECEMBER 18, 2007
MINUTES OF MEETING
ACADEMY – 7 p.m.

Present: Chairperson Nancy Girard, Vice-Chair John Funk, Doug Isleib, David Russell (arrived late), Alternate Members Pam Fecteau and Marty Martindale, and Planning Administrator Lynne Brunelle.

Absent: Felix Barlik, Selectmen's Representative Don Guarino, Dan Hudson, Alternate Member Monica Jerkins

Chair N. Girard opened the meeting at 7:05 p.m., introduced the Board members and appointed Alternate members P. Fecteau and M. Martindale as full voting members.

ACCEPTANCE OF MINUTES: The review and approval of the 11/8/07 minutes were deferred until later in the meeting.

PUBLIC HEARING – Laurose MacFadyen Trust: Boundary Line Adjustment to transfer .739 acre from Town Tax Map/Lot #414-78, of 1.9 acres, to Map/Lot #414-79, of 29.44 acres. Property located at 739 Province Road in the Rural Zone; PB#1807.

Jeffrey L. Greene, Licensed Land Surveyor (L.L.S.) was in attendance on behalf of the applicant to present the proposed plan. The purpose of the plan is to adjust the boundary between Joanne Wilken's lot (#414-78) of 1.9 acres and John Wilken's lot (#414-79) of 29.44 acres by transferring .739 acre from Ms. Wilken's lot to Mr. Wilken's lot. Since the property is located in the Rural Zone, requiring a two-acre minimum, a Variance was required to reduce the 1.9-acre lot to 1.16 acres.

Mr. Greene referenced the 6/21/07 decision by the Zoning Board of Adjustment (ZBA) granting a Variance to reduce the current lot size of 1.9 acres to 1.1 acres by way of a Boundary Line Adjustment. Previous approvals granted by the ZBA included a Variance in 1/16/01 for the encroachment of setbacks for a historic shed; and a Variance in 2/21/02 for the encroachment of setbacks for the barn.

J. Funk inquired where the septic tanks and leach fields are located. Mr. Greene pointed out the approximate location of the septic tank/leach field on Lot #414-78 is behind the existing colonial home. The approximate location of the leach field area for the kennel building is to the back of the house lot, about 120' behind the barn.

D. Isleib asked for clarification about the existing and proposed boundary lines. Mr. Greene explained that the existing boundary lines are mostly stonewalls; the blue lines are proposed.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

P. Fecteau asked why the proposed boundary line divides the existing parking lot in half. Mr. Greene conveyed that one half of the parking area will be used as personal parking for Lot #414-78 and the other half will be used for the kennel (Lot #414-79); although it was noted that it is not currently being used as a kennel.

Claire Wilkens was in attendance and informed the Board that the kennel is currently “in limbo”. She continued that once the estate is settled, she and her husband John will decide whether or not to reinstate the kennel.

J. Funk observed that the property is essentially a family compound that is being subdivided into two parts, with the colonial home and barn on one lot (Joanne Wilkens) and the kennel is being separated from that lot and merged with another lot (John & Claire Wilkens). Mr. Greene confirmed that that is correct.

J. Funk referenced copies of the previous Zoning Board decisions that were attached to the staff report and commented that unless you are familiar with the case, it is difficult to understand what the decisions mean from the language alone; more specificity would be helpful in the future.

Planning Administrator L. Brunelle pulled the ZBA files from 1987, 2001 and 2002 to assist the Board in understanding the previous approvals. For example, in 1987 the ZBA granted a Special Exception for the kennel with the condition that there be screening of shrubs to diminish the noise level created by the dogs, and that “said shrubs shall be at least 3’ – 6’ in five years time and be planted close enough together so that they will, within that five year period, make an impenetrable barrier. Said shrubs shall be planted from the hall door on the south side extending around the kennel to the hall door on the north side.” This condition has never been met and it was noted that this is a good example of how Town Boards must follow up on their decisions to ensure conformance. It also brings to light that when a decision is recorded, it should specifically address the request and stipulate what may or may not be allowed on the property. Furthermore, with respect to this application, if and when the kennel is reactivated the conditions set by the ZBA in their 1987 approval must be met or modified with the Board’s approval.

J. Funk further explained that all mortgage releases must be obtained before the Boundary Line Adjustment can be finalized and that the transferring deeds need to be ready for recording before the plan can be recorded. Mrs. Wilkens stated that they were considering separating the kennel building from the house lot. She was advised that this can only be accomplished via a subdivision.

Motion: J. Funk moved to close the public hearing, seconded by D. Russell. Motion carried 7-0.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

PUBLIC HEARING – Parker Albee: Request to Subdivide Town Tax Map/Lot #415-69, of 23.693 acres, into three lots of 5.057, 7.465 and 11.171 acres each. Property located on Stone Road in the Rural Zone; PB#1907.

David Noyes, L.L.S. was in attendance representing the applicant and to present the proposed plan. Mr. Noyes had come before the Board informally with a conceptual plan to subdivide the 24 acres on Stone Road, at first with a five-lot proposal, which was then reduced to three lots. This was mainly due to an abutter who wanted to purchase one of the lots, the fact that there existed wetlands on the property as well as the character of the neighborhood. The subject parcel is mainly woodland, is relatively flat, with no steep slopes. The Board had previously agreed that 2' contours were not necessary; however, wetlands have been delineated. Since all three lots exceed five acres, State of NH Subdivision Approval is not necessary. However, in accordance with Section VI.C.2. of the Subdivision Regulations, the minimum building site of 30,000 contiguous square feet must be shown on the plan for each lot.

Lot #415-69, of 5.075 acres, will have 330' of road frontage and Lot #415-69-01, of 7.465 acres, will have 350' of road frontage on Stone Road. Lot #415-69-02, of 11.171 acres, will have 580' of road frontage and will be purchased by abutters Michael and Stephanie Fogg. The Planning Board asked Mr. Noyes if the applicant or new owner's would object to a restriction of "No Further Subdivision" on the 11-acre lot? Mr. Noyes does not see any problem; however, they may wish to perform a boundary line adjustment in the future. The consensus of the Board agreed that this was acceptable.

Mr. Noyes explained that he may need to set the rear boundary markers for the middle lot in a slightly different location due to the existing stone wall. The Board members understood his conundrum and agreed to allow the minor adjustment.

Motion: D. Isleib moved to close the public hearing, seconded by D. Russell. Motion carried 7-0.

DECISION – MacFayden Trust Boundary Line Adjustment:

Motion: J. Funk moved that the following findings be made with respect to the MacFayden Trust Boundary Line Adjustment:

1. In 2001, 2002 and 2007 the Zoning Board of Adjustment (ZBA) granted a lot area Variance permitting the size of the lot on #414-78 to be reduced from 1.9 to 1.16 acres and further granted a Variance to reduce the setback requirements of Article IV, Table 2 of the Gilmanton Zoning Ordinance such that the boundary separating lots #414-78 and #414-79 in the vicinity of the barn and the old kennel, as shown on the plan, will be 5.56' from the barn and 9' from the kennel with a 50' setback from the old shed.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

2. The ZBA granted a Special Exception in 1987 permitting the kennel to be used for the care and boarding of dogs with indoor training facilities, grooming shop and small retail area with the condition that shrubs be planted in the vicinity of the kennel building to screen the facility and reduce noise from dogs barking on site.
3. Although the proposed Boundary Line Adjustment creates a substandard lot because of the Variances granted by the ZBA, the Planning Board believes that the granting of the Boundary Line Adjustment will not have an adverse effect on the surrounding properties nor will it be contrary to the guidelines of the Master Plan.

P. Fecteau seconded the motion, vote passed 7-0.

Motion: J. Funk moved to accept the application as complete and grant conditional approval as it appears to meet all the technical requirements 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.
2. 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 or staff.
3. Final plans will not be recorded until the transferring deeds are also ready for recording and the applicant has provided appropriate releases to any mortgages encumbering the effected properties.
4. 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 the conditions of approval.
5. If the owners of Map/Lot #414-79 wish to use the kennel building for purposes allowed by the Gilmanton Zoning Board of Adjustment in its 1987 decision, the owners shall comply with the conditions of the Special Exception set forth in its decision of 4/21/87.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

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

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 the motion, vote passed 7-0.

DECISION – Albee Subdivision:

The Board addressed comments submitted by the Gilmanton Conservation Commission that it should be a two-lot subdivision due to the substantial wetlands located on the property. It was agreed that since Mr. Noyes came before the Board twice, complied with all requests, in addition to the fact that the 11-acre lot containing a significant amount of wetlands is being sold to an abutter with the restriction of “No Further Subdivision” this request is moot.

Motion: J. Funk moved that in accordance with Section III.A. of the Gilmanton Subdivision Regulations, the following findings were made with respect to the Parker Albee Subdivision application:

1. The proposed subdivision complies with the Master Plan;
2. Water supply, drainage, sewage disposal and streets are adequate;
3. The ability of the town to provide street maintenance and snow removal, schools, fire protection and other services without excessive expenditure funds is adequate;
4. The proposed subdivision is harmonious with the neighborhood.
5. The proposed subdivision does not interfere with the preservation of wildlife habitat, natural and man-made features and open space.
6. The character and use of land and buildings in the general vicinity of the proposed subdivision are consistent with the subdivision’s character and use.
7. There will be no 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.
8. Since there are no steep slopes on the property, it was not necessary to require 2’ contours on the plan.

D. Russell seconded the motion, vote passed 7-0.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

Motion: J. Funk moved to accept the application as complete and grant conditional approval as it appears to meet all the technical requirements 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. 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 as follows:
 - (a) The final plan shall depict the correct Town Tax Map/Lot Numbers as follows: the 5.057-acre lot shall be shown as Map/Lot #415-69; the 7.465-acre lot shall be shown as Map/Lot #415-69.1; the 11.171-acre lot shall be shown as Map/Lot #415-69.2.
 - (b) In accordance with Section VI.C.2. of the Subdivision Regulations, the final plan shall depict the minimum building site of 30,000 contiguous square feet for each lot.
 - (c) The final plan shall depict a front setback of 100' for the construction of buildings on Map/Lots #415-69 & #415-69.1 and the appropriate plan notation shall correspond.
 - (d) The final plan shall depict "No Further Subdivision" on Map/Lot #415-69.2 and the appropriate plan notation shall state that the property owner may adjust the boundary of said lot with neighboring properties in the future provided that Lot #415-69.2 comply in all respects to the Gilmanton Zoning Ordinance.
 - (e) The boundary lines between Lot #415-69 and Lot #415-69.1 and Lot #415-69.2 may be varied slightly on the rear stonewall then as shown on the plan to reflect conditions on the ground that could interfere with the location(s) of the pin(s). The final plan submitted to the Board for approval shall contain the exact boundary lines by metes and bounds.
 - (f) The final plan shall properly reflect the correct names of owners of abutting properties.
3. A compliance hearing shall be held by the Board prior to signing the plan, 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 the conditions have been complied with.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

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. 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.
7. 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:

8. No changes shall be made to the approved plan 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.
9. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and State RSA's.

M. Martindale second the motion, vote passed 7-0.

ACCEPTANCE OF MINUTES

The Board reviewed the minutes of the November 8th 2007 meeting. **Motion:** M. Martindale moved to accept the minutes of 11/8/07 as presented, D. Russell seconded. Motion carried 7-0-2; P. Fecteau and D. Isleib abstained, as they were not in attendance at that meeting.

WORK SESSION – Zoning Amendments: Proposed Amendments to the Zoning Ordinance in Preparation of Town Meeting.

**Town of Gilmanton Planning Board
Minutes of Thursday, December 18, 2007**

The Board members reviewed draft amendments to Article VII regulating non-conforming lots, uses and structures. Specifically, Article VII.B.4. which addresses “non-conforming uses or structures destroyed by fire or rendered unusable or uninhabitable may be repaired, rebuilt or replaced only if the former structure’s footprint is exactly followed and the non-conformity with this Ordinance is not increased.” As conveyed by members of the ZBA, this language is confusing and arbitrary, and the Board is considering replacing the term “footprint” with “same dimensions”.

D. Isleib referenced the Zoning Ordinance for the Town of Newbury and stated that it is simplified because it is separated by Structure, Use and Lot. All agreed this is a good format.

J. Funk will redraft the language and forward it to L. Brunelle for distribution. She suggested that we allow the ZBA opportunity to provide input on the proposed language prior to posting for a public hearing.

ADMINISTRATOR’S REPORT

Crystal Lake Farms Subdivision: L. Brunelle explained that a site inspection was scheduled for Monday 12/11/07 and was cancelled due to inclement weather. It was rescheduled for Thursday 12/13/07 at 9:30 a.m. Code Enforcement Officer Bob Flanders, Conservation Commission Chair Nanci Mitchell and Alternate Planning Board Member Marty Martindale accompanied Anna Herrero from State of NH-DES, Alteration of Terrain Division. Ms. Herrero will forward a report to Mr. Rague and will copy the town. Until such time it was her recommendation that the Board not take any action on this application.

Thompson/Reed Boundary Line Adjustment: L. Brunelle informed the Board that the deeds and plans have been received for this application and will be signed tonight.

ADJOURNMENT

On a motion made by F. Barlik and seconded by M. Martindale, vote passed unanimously. Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Lynne R. Brunelle