

**TOWN OF GILMANTON PLANNING BOARD**  
**THURSDAY, APRIL 16, 2009 – 7 p.m.**  
**APPROVED MINUTES**

**Present – Planning Board:** Chairperson Nancy Girard, Selectmen’s Representative Don Guarino, Selectmen’s Alternate Rep Betty Ann Abbott, Dan Hudson, Marty Martindale, Dave Russell and Planning Administrator Lynne Brunelle.

**Present – Zoning Board:** Chairperson Betty Hackett, Carolyn Baldwin, Ron LaBelle, Paul Levesque, Israel Willard, Alternate Member Wayne Gray and Zoning Clerk Annette Andreozzi.

**JOINT HEARING - John & Claire Wilkens – PB #0509/ZBA #05-2009:** Site Plan Review from Planning Board & Special Exception from Zoning Board to operate Kennel in the Rural Zone, Town Tax Map/Lot #414-79 of 30 acres located at 741 Province Road.

Due to conflict of interest, Selectmen’s Rep D. Guarino recused himself from the public hearing. Chair N. Girard appointed Alternate Rep B. Abbott to represent the Selectmen for this hearing.

Attorney Melissa Guldbrandsen was in attendance representing the applicants John & Claire Wilkens, and presented background information on this case. The pre-existing structure was built and approved as a dog kennel in 1987. In 2007, it was not in use for more than a year, therefore, the Special Exception expired. She continued that there are a number of standards the Board should consider: (1) It is an appropriate use because the kennel is not incompatible with the Rural Zone; (2) The use would not adversely effect the abutters as it is the same use since 1987; (3) The kennel is an appropriate use for this lot because it has it's own building, septic and well, and it can function on it’s own; (4) It is not a nuisance or hazard. There is ample parking on site, off the main road and is set back about 100’; (5) The boundary near the kennel is pre-existing and was approved by the Planning and Zoning Boards; (6) The next standard pertains to additional requirements as per Article X, and there are none. Therefore, the submitted use is consistent with the Town’s Zoning Ordinance.

C. Baldwin stated that the application references RSA 21:34-a which regulates Agricultural Uses and she does not believe that the proposed use falls within this definition. Atty. Guldbrandsen stated that according to Article IV, Table 1 of the Zoning Ordinance, the proposed use would be considered a Service Business.

Discussion occurred regarding the fact that the shared driveway and parking area are being used for the kennel business. The driveway permit issued by the State of NH DOT references it as both residence and business. Furthermore, Note #8 on the Boundary Line Adjustment plan recorded on 4/18/08, states that a common driveway and parking easement is to be established between Map/Lot #414-79 & #414-78. The kennel was not in operation when the Boundary Line Adjustment was approved.

As per the submitted plan, there are six parking spaces available in the paved parking area. There are also four additional parking spaces in a gravel area. The other driveway located on the property provides access to John & Claire Wilken’s house, but it is not clear whether the State will allow it's use for business. According to the 1987 approval, shrubs were supposed to be planted to diminish the noise level created by the dogs.

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Said shrubs were to be at least 3' high when planted to grow up to be 6' in five years time and planted close enough together so that within a five-year period make an impenetrable barrier. When asked if they were ever planted, Mrs. Wilkens responded that the shrubs were planted, but have since died. N. Girard indicated that in accordance with the Town's Site Plan Regulations, the Board may require appropriate screening based on tonight's input and testimony.

C. Baldwin asked if the kennel is being run by the owner or is it being rented out? Mrs. Wilkens responded that the kennel is being leased to an individual who trains dogs for police and homeland security. When asked if the applicants were planning to continue leasing, Mrs. Wilkens responded that she didn't know if she and her husband would take over the kennel. C. Baldwin is not comfortable with the fact that the lessee doesn't live on the property. It was noted that a similar situation occurred with the Benson/Vayda Contractor's Yard where the applicant does not live on the property but both the Planning and Zoning Boards granted approval on the application.

D. Hudson asked how the building is currently being used. Mrs. Wilkens responded that presently dogs are being trained outside behind the building in the area over the leach field, mostly on weekends. Some dogs are brought on site for training while others remain in the kennel afterwards, so there are approximately four or five cars coming, parking and then leaving per training session. The lease requires that the dogs remain inside at night.

D. Hudson suggested the applicant consider having one driveway serve as the entrance and the other as an exit, considering the circumstances and for safety purposes.

I. Willard asked about a business plan so that the abutters can anticipate when there would be additional traffic and/or noise. The applicant cannot determine how many dogs and/or people will be on site at one time, but reasonable hours of operation can be established. Atty. Guldbrandsen stated that the kennel would operate daily from 8 a.m. to 5 p.m.

D. Hudson asked how many dogs could be boarded at the same time? Atty. Guldbrandsen responded that the kennel can board up to eight dogs at a time.

Joanne Wilkens, abutter, was in attendance and conveyed that her attorney Patrick Wood could not be present. She read a letter addressed to her from Atty. Wood relating his concerns regarding the application. These were: (1) Kennels need to be licensed by the State of NH as per RSA 437:1 or 466:4. (2) "Agriculture-Traditional" is defined in the Town's Zoning Ordinance as "*all uses directly related to the operation of a family farm having five or less full-time equivalent employees on an annual basis in addition to family members*". "Agriculture" is defined by reference to NH State RSA 21:34-a. He believes that neither definition describes the proposed use. (3) Atty. Wood believes the dog kennel should be categorized as a "Retail Business" which requires a Special Exception in the Rural Zone. (4) Atty. Wood believes that the Windy Hill Kennel sign should be relocated to the applicant's driveway and not the shared driveway where it is currently located. (5) In its consideration of the application, the ZBA must take into account certain conditions set forth in the ordinance, specifically, is the site an appropriate location for the proposed use?

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The ZBA should consider site characteristics such as topography, soils, water resources, road access, driveways, existing structures, other similar and relevant characteristics in making a determination. (6) Atty. Wood continued that the ZBA should consider other impacts such as whether the proposed use blends with the surrounding land uses, whether it would have an adverse impact on the neighborhood, whether the facilities are adequate and appropriate, whether the proposed use would be a nuisance or hazard, as well as whether the existing structure meets the setbacks required by Article IV, Table 2 of the ordinance.

Ms. Wilkens continued that her attorney is concerned that the driveway and parking lot are being used for business purposes and he has submitted a request to the State of NH DOT for their consideration to reclassify it for residential use only. There is not an easement on either deed for this access. She submitted Atty. Wood's letter for the record with attachments including the letter to the State of NH DOT, the application for the driveway permit reclassification, the proposed applications, copies of maps/plans as well as the deeds to the properties.

Atty. Guldbrandsen objected to the packet being presented to the Boards at this time. ZBA Chair E. Hackett explained that typically, the Board does not accept a packet of new information and make a decision on the same night. However, she explained that after the ZBA makes a ruling, an individual has the right to appeal if they don't agree with the Board's decision.

W. Gray referenced the ZBA decision of 6/21/07 granting a Variance for Ms. Wilkens to reduce her lot size and asked why the driveway issue was not brought up at that time? Ms. Wilkens stated that in 2007 the kennel was not operating and previous to that time the business was family-owned. Her mother's property was divided according to her will and Joanne received her portion about a year ago. She believes that the kennel/dog training business by a third party began sometime at the beginning of this year and she wants to make sure things are being done legally.

D. Hudson asked Ms. Wilkens if she objected to the proposed use of the building. She responded that it was good use of the building, but she was concerned about the dogs being left alone in the kennel overnight and sometimes during the day.

I. Willard asked if liability insurance was being required from the lessee? Mrs. Wilkens responded that both the lessee and lesser have insurance.

Atty. Guldbrandsen informed the Board that a kennel license has been submitted. She also read a letter from an abutter into the record supporting the proposal.

Ms. Baldwin asked if the applicants would consider reconfiguring the driveway leading to their house for purposes of accessing the kennel? Atty. Guldbrandsen responded that they would, however the State of NH DOT would have to review and approve the access. This prompted discussion regarding obtaining verification of the use of the shared driveway/parking area. It was pointed out that the note on the boundary plan indicates that the driveway is to be shared, but it does not specify to the extent of use.

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With no further input from the Board members or the public present, the Chair entertained a motion to either close or continue the public hearing.

**Motion:** I. Willard moved to close the public hearing for ZBA Case #05-2009, seconded by P. Levesque. Motion carried 5-0.

**Motion:** D. Hudson moved to continue the public hearing for Case PB #0509 until the next regularly scheduled meeting on 5/14/09. D. Russell seconded, motion carried 4-0.

**8:35 p.m. - RECESS/RECONVENE:** The Planning Board reconvened to the downstairs conference room to continue with their scheduled agenda items. D. Guarino resumed his seat as Selectmen's Rep to the Planning Board.

**CONTINUED PUBLIC HEARING – Chris Keith:** Site Plan Review for Equipment Storage in proposed 40'x 70' barn on Map/Lot #414-61 of 57 acres located at 541 Meeting House Road in the Rural Zone; PB#0709.

Chris Keith, was in attendance to present the proposed plan. He referenced the Site Walk taken on Monday 5/13/09 at 6 p.m. as well as a discussion with his closest abutter, George Roberts, and believes that they have it all worked out. He conveyed that the plan is to construct a barn in the northeast corner of his property near the Roberts' lot, which is for sale. Mr. Keith had originally wanted to construct a shed roof and store cordwood and equipment on that side of the barn; however, he is willing to side the long end of the barn and put a door on the north end of the barn to appease the town and his abutters.

George Roberts, abutter, stated that the submitted Site Plan is not to scale and it appears that the proposed barn is to be located 240' from Meeting House Road and only 45' from his property line. As mentioned earlier, this lot is up for sale and the only reasonable building site has been located in the upper left corner, where the proposed barn is to be located. He continued that the abutter's notice refers to the 40' x 70' barn as a "Storage Facility" and the owner testified at the Historic District Commission (HDC) hearing that he would be storing cordwood and a boat under the shed roof. This has now become a tractor and an excavator and/or a bulldozer. His question is, if Mr. Keith is proposing to building a 40' x 70' barn for storage, why does he need to store these items under the eaves? Furthermore, the historic significance is not only the design of the building but also what is outside of the building. He continued that if this is a business, then the HDC and/or the ZBA should review the use because this can potentially devalue an abutting property. As it is, the HDC didn't address whether there would be a change in elevation. Mr. Roberts is concerned that there will be a truck with a flatbed and bulldozer coming in at 5 a.m. or 8 p.m. because this will change the neighborhood significantly, and this is not an agricultural use. He wanted to stress that if this is a barn, it should be enclosed and any equipment should be stored inside and not allowed to devalue surrounding properties.

Mr. Roberts would like to see the Planning Board apply conditions to mitigate the impact by requiring screening by possibly planting white pine trees, because this is a big structure that cannot be shielded by the forested or wooded area as shown on the plan.

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N. Girard stated that the Site Plan Regulations can be mitigated to address the concerns of the abutters, applicant and the Board members.

M. Martindale acknowledged that a shed roof is less expensive than an addition and to require the applicant to enclose that area would add expense for the applicant. He continued that he doesn't like to see the Board over-regulate more than absolutely necessary and if the use of the open area was intended for cordwood, then perhaps the applicant could enclose part of it for equipment storage.

Mr. Keith conveyed that he intended to leave the walls open, and storing wood is not inconsistent with rural/agricultural use, but he's willing to accommodate the Board's request.

Mr. Roberts asked if it's a storage facility, how would what's being stored there be enforced? If its stacked cordwood, then its consistent with the zone and not an eyesore to abutters; but he doesn't want to look out his window at an excavator and feels he shouldn't have to contact the Code Enforcement Officer to get him to move it.

D. Russell asked the applicant if he has so much equipment that he cannot fit an excavator in a 40' x 70' barn? Mr. Keith responded that it exceeds his needs but he's planning on installing a concrete floor throughout only one-third of the barn, the rest will be gravel. It will be 14' from post to wall but only 10' high with a higher clearance at the ends.

D. Hudson stated that the first Informal Discussion suggested that the equipment would be stored inside only, being moved about twice a year. The more recent conversations reveal that the equipment will be coming in and out more often than that and will be stored outside, visible to abutters in a Historic District. He indicated that if this is the case, then additional approvals will be required.

Mr. Keith responded that the equipment doesn't come back home in the summertime and doesn't return until the ground is frozen, but if his clients don't want it to remain on the building site then it will need to be returned to the barn. He will need to bring his truck and trailer home more frequently.

B. Abbott asked the applicant why he couldn't move the barn over so that the shed roof would be facing his house instead of the abutters? Mr. Keith responded that if there is any noise coming from the barn, at least it's facing his house and not the street or abutters. It was noted that on the Site Walk it was apparent that the barn is sited appropriately with the existing grade and the applicant doesn't want to make any cuts into the landscape. Mr. Keith indicated that the budget to build the barn is a small one and the shed roof may not happen for years and they are discussing the least likely aspect of the barn to be constructed.

D. Guarino conveyed that he likes the design of the barn but wants assurance that the applicant is working inside and not creating a Contractor's Yard in the Historic District. Mr. Keith intends to partition the inside of the barn inline with the street-side door so that he can drive his excavator right in.

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D. Russell suggested a buffer with landscaping and/or some kind of screening. D. Hudson thinks that this area consists of mostly hardwoods and a row of pine trees would only make it look out of place. It was determined that they're better off requiring the same siding as the barn instead of trying to screen it with trees or shrubs. N. Girard asked the applicant if he intends on any signage? Mr. Keith responded that he's not planning on it, as he's restricted by the HDC to have any signage and/or outdoor lighting.

D. Hudson stated that the submitted sketch is not to scale and it is very deceptive that the proposed barn is 45' from the stonewall. He would like to see the final plan submitted to scale showing accurate distances and setbacks. It was also suggested that the Board consider placing a condition that when the shed roof is built in the future that it be enclosed. The Board doesn't want to hold up construction of the barn; however, they are aware and appreciate the abutter's concerns. Therefore, a condition will be included that the shed on the east side of the barn will be sided in a similar way as the barn in order to shield the contents of the interior and a door will be installed on the north end of the barn.

**Motion:** D. Hudson moved to close the public hearing for Case PB#0709, seconded by D. Russell. Motion carried 4-0.

**INFORMAL DISCUSSION – Mark Warren, Gilmanton Energy Committee:** Update on Town's Energy Committee and discussion pertaining to alternative and sustainable energy.

Mark Warren was in attendance to convey that he is the liaison between the Gilmanton Energy Committee and the Planning Board. The Committee's objective is to provide residents with information regarding reducing their energy costs, energy-efficient windows, solar panels, new regulations, etc. There is a new Statute regarding solar energy, as well as new regulations pertaining to small wind energy systems. He would hope that the Board would encourage new applicants to think about ways to conserve energy and consider sustainability, whether it be wind, solar or geothermal. N. Girard asked if the Committee has any pamphlets or printed material? Mr. Warren stated that the Committee is working on pamphlets and they are also listed on the Town website at [www.gilmantonnh.org](http://www.gilmantonnh.org) under "Miscellaneous Committees". The Energy Committee meets on the fourth Thursday of the month at 6 p.m. at the Academy. The Board thanked Mark for coming in.

**INFORMAL DISCUSSION – Andrew Fast, UNH Coop Ext Forest Resources:** Potential Natural Resource Protection Audit of Town's Master Plan, Zoning Ordinance, Subdivision and Site Plan Regulations.

Andrew Fast was in attendance and introduced UNH student, Jill Scahill, who will be interning for the Town this summer. She will be reviewing the Town's ordinances and regulations while conducting a Natural Resource Audit to determine whether there exist inconsistencies pertaining to protecting our natural resources. Planning Administrator Lynne Brunelle developed a Project Scope Statement, which was distributed along with Ms. Scahill's Table of Contents for review by the Board. Jill informed the Board that she would be available to work on the project from mid-May to mid-July.

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This would allow the Board to review her initial results in August and finalize them in September, just in time for the Board to consider Warrant Articles for next year's Town Meeting. N. Girard conveyed that the Board will be working on the development of an Aquifer Protection Overlay District and the results of the NRA will fit in nicely with our timeline. Lynne will forward the appropriate documents to Jill in May (after final exams) and then a Joint Work Session with the Conservation Commission will be scheduled so we can get started. The Board thanked Andy and Jill for coming in.

**OTHER BUSINESS:**

**Padula Site Plan:** Lynne reminded the Board that this application was continued until the 5/14/09 meeting and the Site Walk is scheduled for the same day at 6 p.m.

**Crystal Lake Farms Subdivision Update:** At the 4/9/09 meeting the Board reviewed a letter from HTA regarding the road plans for this project. Lynne provided the Board with the last correspondence to the applicant informing him of the outstanding conditions to be met. These include: (1) Completion of the Conservation Easement Deed and documents, and to arrange a Site Walk to finalize the baseline documentation. (2) Conservation Easement Deed must be formally accepted by the Gilmanton Conservation Commission, Board of Selectmen and Planning Board. (3) Town Counsel must provide satisfactory confirmation of title insurance, and Board of Selectmen must accept title. (4) Submission of Road Maintenance Agreement, Declaration of Restrictions and Drainage Easement Deeds for review and acceptance by Town Counsel. Lynne will forward another letter to the applicant updating the outstanding items.

**LRPC Survey:** The Board reviewed and completed the survey requested by Lakes Region Planning Commission. Lynne will forward the results to LRPC Commissioner Stan Bean who will provide a cumulative report to the Board of Selectmen.

**Land Trust Land Protection Workshop:** GCC Chair Nanci Mitchell distributed the notice for the GLT Workshop being held on Thursday 5/7/09 from 7 to 9 p.m. at the Academy.

**DECISION Case #0709 – Chris Keith Site Plan:**

**Motion:** D. Russell moved that in accordance with the Gilmanton Site Plan Review Regulations the Board make the following findings:

1. No outside storage or parking of equipment, vehicles or materials is being proposed on the property.
2. No other employees are proposed except for the owner of the property.
3. Appropriate storage and disposal of hazardous materials will be provided on site.
4. Based on the above findings, the proposed use is not considered a Contractors Yard.

D. Hudson seconded, motion carried 4-0.

**Motion:** D. Russell moved to grant the request to waive Section VII.B.3.a.b.g.h.i. of the Site Plan Review Regulations requiring that the plan be prepared by a licensed land surveyor at a scale of 1" = 20' on a sheet size of 34" x 22" showing a proximity map, all boundary lines, wetland delineation, topographic and contour lines. M. Martindale seconded, motion carried 4-0.

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**Motion:** D. Russell moved to accept application PB#0709 as complete and grant conditional approval as it appears to meet all the 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 plan being signed and conditions recorded.

1. Any required Town, State or other agency permits shall be provided to the Planning Office before final plan may be signed and recorded.
2. Submission of final plans in accordance with Town Ordinances and Regulations, with the exception of any waivers that may have been granted, and as follows:
  - (a) the final plan shall be to scale and shall depict the actual dimensions from the barn to the stonewall, the setback dimensions from the barn to the road, as well as from the barn to the corner of the abutting lot (Map/Lot #414-62).
3. Any signage, landscaping and/or screening shall be shown on the final plan in accordance with the Site Plan Regulations and at the Board's discretion.
4. Any fuel tanks and/or waste oil produced, used or stored on the property shall be kept within a bermed area on an impervious surface; the location of which shall appear on the final plan.
5. 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.
6. Applicant is responsible for the payment of any fees required by the Belknap County Registry of Deeds for recording the approved Site Plan and/or the Conditions of Approval.

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

7. The shed on the east side of the barn shall be sided in a similar way as the barn in order to shield the contents of the interior and a door shall be installed on the north end of the barn.
8. Property owner shall install all required traffic control, fire, life safety and health facilities and systems required by the Board, in addition to other applicable Codes and Regulations.
9. All dumpsters shall be located on a solid cleanable surface such as concrete, shall be of sufficient size to contain all materials, shall be kept closed, and shall be appropriately screened.

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10. All exterior lighting shall be shielded and pointed downward to avoid impact to abutters and traffic.
11. Landscaping shall be maintained, shall be kept in a sightly manner and not allowed to deteriorate.
12. The use of the property is limited to those indicated in the applicant's testimony at the public hearing(s) and submitted documents as a Storage Barn. Any other use(s) require further review and approval by the Gilmanton Planning Board and the Historic District Commission.

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

13. 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.
14. The Planning Board shall have the power to modify or amend its approval of a Site Plan upon its own motion to do so.
15. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSAs.

D. Hudson seconded, motion carried 4-0.

**ADJOURNMENT**

On a motion made by M. Martindale and seconded by D. Russell, vote passed unanimously.  
Meeting adjourned at 11:25 p.m.

Respectfully submitted,

Lynne R. Brunelle