

GILMANTON PLANNING BOARD
THURSDAY, APRIL 17, 2007
ACADEMY BUILDING
MINUTES OF MEETING

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

Chair N. Girard opened the meeting at 7:08 p.m. and explained public hearing procedures.

ACCEPTANCE OF MINUTES: The Board members reviewed the minutes from the Thursday, March 8, 2007 meeting. **Motion:** D. Russell moved to accept the minutes of 3/8/07 as presented, seconded by D. Isleib. Motion carried 5-0-1, J. Funk abstained.

CONTINUED PUBLIC HEARING – Richard A. Almeida, owner/applicant:
Boundary Line Adjustment between Town Tax Map/Lot #38-14 of 3.065 acres, Map/Lot #38-15 of 2.332 acres, and Map/Lot #38-12 of 3.029 acres. Property located at 9 Lakewood Drive in the Rural Zone; PB#0407.

Dennis Railland, L.L.S. was in attendance to present the updated plan. At the 3/8/07 meeting, the Board had suggested adjusting the boundary between Lots #38-12 and #38-14 to provide sufficient frontage for both lots to be conforming. The driveway for Lot #38-14 was relocated to accommodate this adjustment. Lots #38-14 and #38-15 each have sufficient frontage on Crystal Lake. The plan depicts each lot with the original acreage, area to be transferred, as well as the final acreage. Requests were submitted to waive the requirement that the final plan show wetland delineation, topography and contours because all lots are existing and no new development is being proposed.

N. Girard commented that the applicant and/or agent did exactly what the Board had asked and she is pleased with the result.

D. Isleib stated that according to the original tax maps he concluded that the reason why Lot #38-14 did not have road frontage was because Lakewood Drive was not a town road. This proposal not only provides this lot road frontage, but it also makes all three lots conforming. F. Barlik agreed and stated it furthermore resolves the setback issue in that the house located on Lot #38-14 will meet the required 20' side setback.

J. Funk asked Mr. Railland if this lot was originally landlocked and why? Mr. Railland explained that the original subdivision took on many forms throughout the years and included many easements to access water, other lots, etc. L. Brunelle indicated that the plan references the original subdivision of December 1973. She also noted that the Town tax maps were recently updated; therefore, the final plan will depict the new map and lot numbers.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

The final acreage for each lot will be as follows: New Town Tax Map/Lot #416-05 (Old #38-12) will be 2.641 acres. New Tax Map/Lot #112-50 (Old #38-14) will be 3.635 acres. New Tax Map/Lot #112-51 (Old #38-15) will be 2.149 acres.

Motion: D. Isleib moved to close the public hearing, F. Barlik seconded. Motion carried 6-0. It was further determined that the Board would take up deliberation on the application at this time. All agreed that the plan met the Town's requirements as well as the Board's requests, and the following decision was rendered.

DECISION – Almeida Boundary Line Adjustment:

Motion: J. Funk moved that the request to waive Section III.C.1.h. of the Subdivision Regulations requiring that topography, contours and wetland delineation be shown on the plan be granted because the lots are existing and no new development is being proposed. F. Barlik seconded, motion carried 6-0.

Motion: J. Funk moved to accept the application as complete and grant conditional approval as it appears to meet all the technical details 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. The final plan shall depict the new Town Tax Map & Lot numbers as follows:
 - (a) Map/Lot #38-12 shall be shown as Map/Lot #416-05; Map/Lot #38-14 shall be shown as Map/Lot #112-50; Map/Lot #38-15 shall be shown as Map/Lot #112-51.
2. Final plans will not be recorded until the transferring deeds are also signed and ready for recording.
3. 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.
4. 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 staff to determine if the conditions have been complied with.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

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

5. 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.
6. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSA's.

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

INFORMAL DISCUSSION – Laurie & Robert Henderson: Possible Site Plan Review for Town Tax Map/Lot #29-61 located at 120 Middle Route in the Rural Zone.

Laurie Henderson was in attendance to discuss her pursuit to establish a Child Care Facility. She explained that there is an existing two-story barn on their house lot, which is the former Bark & Bradley property located on Middle Route. Mrs. Henderson presented the Site Plan for Lee Barbera and Patti Bradley approved by the Planning Board in 1993 showing the house, barn, parking, other outbuildings, etc. She explained that what she is proposing is not as much as Day Care, but an “Edu-Care” Day Camp offering half-day programs for preschool and/or school age children. They would like to incorporate their horses in the program, as well as provide experiences in nature such as bird watching, gardening, nature walks, etc. She believes that since the proposal is not necessarily a Child Care and will be utilized in an existing barn, that it falls within the definition of Home Occupation, and would appreciate feedback from the Board.

D. Russell asked if it qualifies as a Day Care or a Private School? L. Brunelle referenced Zoning Ordinance Article IV Table 1, and stated that “Child Care Facility” is permitted by Special Exception from the Zoning Board of Adjustment (ZBA) and is defined as “a facility licensed by the State of New Hampshire in which child care is provided for any part of the day for five or more children” and would also require Site Plan Review by the Planning Board.

Mrs. Henderson stated that according to the State, she would be licensed as an “In-home Family Care Facility” with a maximum number of six pre-school children and three school-age children. She continued that they are currently removing the existing sheetrock in the barn and replacing it with barn board for horse stalls. She would like to eventually replace the second floor for the sale of agricultural/farm products such as local fruits, vegetables, maple syrup, jams, jellies, etc. and possibly lease space to artisans for the sale of their products.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

N. Girard referenced Article IV - Table 1, Table of Permitted Uses, and indicated uses listed that may be suitable are: Camp for Children (Summer), Cottage Industry, Child Care Facility, Retail Business, etc. most require a Special Exception by the ZBA. Agricultural Uses and Home Occupations are permitted in all zones; however, does the proposal fall within the parameters of Home Occupation?

Discussion occurred regarding the terminology used by the State of NH Code of Administrative Rules as a "Family Child Care, Home". D. Russell believes that this falls under the description of "Childcare Facility". F. Barlik feels that the Board shouldn't concentrate on the term "facility" because it is in the capacity of an "In-home Day Care".

J. Funk stated that the Board shouldn't get fixated on terminology as much as the service being offered and the impact it may have on the neighboring area. He referenced the Section VIII of the Site Plan Regulations regarding parking requirements and noted that the closest descriptive use would be "Preschool Center" which would provide the Board with some guidance pertaining to the Table of Uses. He continued that it would make sense to identify all that would apply in the Site Plan Review process for purposes of addressing the public health, safety and welfare, traffic circulation, parking, adequate buffers, landscaping and screening, etc.

F. Barlik referenced the definition of Agricultural Use, as it is based on the State RSA and the percentage of product produced from the property, number of employees, etc. is exempt from zoning and does not require a Special Exception. He continued that the square foot area utilized for display purposes determines the number of parking spaces for a Retail Use.

L. Brunelle clarified that Home Occupations and Agricultural Uses may be exempt from zoning but not from Site Plan Review. She also questioned whether the Henderson's proposal to eventually sell farm and/or artisan goods would be considered a Retail Use or "the manufacturing of craft or food products for sale" as defined in Home Occupation. Lynne asked Mrs. Henderson if their intent is to have artisans onsite creating and/or producing craft items for sale or renting space in order to sell these products? She responded that it may be both, but most likely the sale of agricultural, craft and/or food items.

The consensus of the Board was that the Hendersons seek approval from the ZBA for Retail Sales so they don't need to meet specific requirement for Agricultural Use and/or Home Occupation, or need to return for further approvals in the future. Then they can apply for Site Plan Review by the Planning Board; or it may be heard by both Boards at a Joint Hearing. Mrs. Henderson stated that she would like to get started on the Day Care Facility in order to offer the day camps this summer, and then go from there.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

L. Brunelle asked the Board if they would accept the 1993 Site Plan sketch as the basis for the current proposal. She continued that the applicants have an updated survey on file from their recently approved Subdivision/Boundary Line Adjustment approved in 2006. The Board members agreed that this would be acceptable.

Lynne informed the Hendersons that the deadline for the Site Plan application was the following day (Wednesday, April 18, 2007) and the deadline for the ZBA application is next week (Monday, April 23, 2007). She urged Mrs. Henderson to contact the office tomorrow in order to get on either agenda.

Throughout this discussion, a pamphlet describing the "Edu-Care" day camp was distributed and reviewed by the Board members. P. Fecteau asked Mrs. Henderson if she has received any response from the community yet. She responded yes, she has, and understands that many people in the area are interested. P. Fecteau stated that it looks like a good program and hopes that she follows through with it.

D. Hudson cautioned that this process may take more than one meeting, due to Site Walks and/or other requirements; therefore, she should get her application(s) in as soon as possible in order to obtain the appropriate approvals in time for the summer season.

The Board thanked Mr. & Mrs. Henderson for coming in.

INFORMAL DISCUSSION – Ann & Dick Hammond: Possible Boundary Line Adjustment of Town Tax Map/Lot #38-10-34 located on Terrell Way in the Rural Zone.

Ann and Dick Hammond were in attendance with abutters Barbara and Richard Rice to discuss their intention to purchase a .53-acre lot, owned by Fortunate Seven Trust, located across the street from their property on Terrell Way, a private road. They would then like to subdivide the lot and merge it with their individual lots. The subject lot was at one time two smaller lots that had been merged.

D. Isleib addressed the Board about the history of other lots located in the same subdivision that have either been merged and/or subdivided. He thinks that the only way this should be accomplished is by subdivision.

L. Brunelle referenced the Board's discussion of 2/8/07 when she initially addressed the issue regarding the appropriate procedure in order for the proposal to occur. It was decided that the applicants needed to first determine the fee ownership under the road and proceed with a Boundary Line Adjustment because the Planning Board cannot legally approve the subdivision of a non-conforming lot. Discussion ensued and it was determined that the applicants should first obtain a Variance from the ZBA to subdivide a non-conforming lot, then to the Planning Board with the subdivision application.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

ADMINISTRATORS REPORT

Child Care Facility: Planning Administrator Lynne Brunelle reported that Cindy Clairmont, from 33 NH Route 106, contacted her about the appropriate procedure for her to establish an in-home Day Care. Selectmen's Rep D. Clairmont announced that he would recuse himself from this discussion as Ms. Clairmont is his cousin.

L. Brunelle informed Ms. Clairmont that if she intended to care for five or more children, she would need to obtain a Special Exception from the ZBA, and then proceed with a Site Plan Review by the Planning Board. Ms. Clairmont submitted her zoning application with a letter requesting that the Planning Board waive the Site Plan application. Discussion ensued and it was determined that Ms. Clairmont would need to obtain Site Plan approval. Lynne confirmed that the request for a Special Exception would trigger the requirement for Site Plan Review. However, she conveyed the applicant's point of view that would seem an unnecessary expense and time-consuming procedure for what she believes to be a Home Occupation.

Wetlands Permit: L. Brunelle informed the Board that a Standard Dredge & Fill application was submitted for a wetlands crossing to access Mr. Clairmont's property located at 46 NH Route 140. She explained that this site is used for stockpiling material in conjunction with the Clairmont Asphalt & Paving Site Plan, approved by the Board in 2003.

Gilmanton Conservation Commission (GCC) Chair, Nanci Rae Mitchell was in attendance and indicated that she had recused herself from reviewing this application as she is an employee of Blue Moon Environmental, who prepared the application. GCC Vice-Chair Dick deSeve is in the process of reviewing the application and will coordinate a site walk once the weather cooperates. The Commission will then forward a letter to the State of NH DES with any recommendations.

D. Clairmont explained the purpose of this application is to create a safer situation. He would like to widen the driveway so that if a truck is entering, another may safely exit. The first 25' of the new driveway will have a negative 2% grade from the highway and the remaining 425' will have a 4% grade. This will impact 5,314 square feet of wetlands. Mr. Clairmont recently received an updated driveway permit from the State of NH DOT. He explained that the driveway is currently too close to an abutting property, and will be relocated in an easterly direction to allow for additional space, as well as to install a new drainage system in accordance with the submitted plan.

Wind Powered Generator: Lynne informed the Board that Leif Erickson, from 540 NH Route 140, contacted her and inquired about zoning requirements for a wind powered generator on his property.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

In accordance with Article III.E. of the Zoning Ordinance “the height of a structure shall not exceed 35’ above mean ground level, except for domestic radio and television antennas, silos for storage of feed crops or other farm outbuildings, church towers, water storage structures, chimneys, or *wind operated devices*”. Therefore, it would be exempt from the height limitation. It would be considered a permanent structure, which must meet all setbacks and require a building permit. If the wind-powered generator were for commercial purposes, then it would also be subject to Site Plan Review by the Planning Board. Lynne will forward this information to Mr. Erickson.

Work Session: Lynne informed the Board that amendments to the Subdivision and Site Plan Regulations will be required resulting from the adoption of the Floodplain Management Ordinance at Town Meeting. A Work Session was scheduled for Thursday, May 3rd from 7-9 p.m. The Board will also review potential changes to the Planning Board Rules of Administrative Procedure.

Final Plans - Blake Subdivision: Lynne informed the Board that the final plans for the Blake Subdivision on Middle Route were recently received. All conditions were met and at the applicant’s request to expedite the process, the Chair agreed to come in and sign the plans so they could be recorded at the BCRD.

Final Plans - Derby Subdivision: Lynne informed the Board that the final plans for the Derby Subdivision on Meadow Pond Road were received and will be signed by the Chair this evening.

Class VI Roads Committee: Lynne informed the Board that there are five Class VI Roads remaining to be inventoried and Committee Chair, Ella Jo Regan, asked her to schedule a Work Session so road teams may be assigned. These roads are Pine Hill Road, Griffin Road, Durrell Mountain Road, Joe Jones Road and Governor’s Road. *The Work Session was subsequently scheduled for Tuesday, May 8th at 6 p.m.*

OTHER BUSINESS

Election of Officers: Chair N. Girard informed the Board that the Board procedurally elects a Chair and Vice-Chair on an annual basis. At this time, she opened the floor to nominations for Chair. **Motion:** D. Russell moved to nominate Nancy Girard as Chair for the ensuing year, seconded by F. Barlik. Motion carried 6-0.

Discussion occurred regarding the Planning Board Rules of Administrative Procedure and that more effort should be made to abide by them. It was noted that the procedures had not been updated since 1997 and have been discretionary. Administrative Assistant Tim Warren had inquired whether the Board is interested in having the Planning Board meetings recorded and televised on the public access channel. It was noted that if the meetings were recorded, the Board may be more mindful of maintaining professionalism.

**Town of Gilmanton Planning Board
Minutes of Thursday, April 17, 2007**

At this time, the Chair opened the floor to nominations for Vice-Chair.

Motion: D. Russell moved to nominate John Funk as Vice-Chair for the ensuing year, seconded by F. Barlik. Motion carried 6-0.

ADJOURNMENT – 9:35 p.m.

On a motion made by D. Russell and seconded by F. Barlik, vote passed unanimously.

Respectfully submitted,

Lynne R. Brunelle

The minutes were approved, as amended, by unanimous vote at the 5/10/07 meeting.