

TOWN OF GILMANTON PLANNING BOARD
THURSDAY, MAY 8, 2008
ACADEMY – 7 p.m.
MINUTES OF MEETING

Present: Chairperson Nancy Girard, Selectmen’s Representative Don Guarino, Dan Hudson, Alternate Member Pamela Fecteau, and Planning Administrator Lynne Brunelle.

Absent: Felix Barlik, John Funk, David Russell, Alternate Members Monica Jerkins and Marty Martindale.

Chairperson N. Girard opened the meeting at 7:10 p.m. and appointed Alternate Member P. Fecteau as a full voting member.

ACCEPTANCE OF MINUTES: The Board members reviewed the minutes of the 4/10/08 meeting and a minor correction was made. **Motion:** D. Hudson moved to accept the minutes as amended. P. Fecteau seconded, vote passed 4-0.

CONTINUED PUBLIC HEARING – Jason P. Bellush, applicant; Dorothy M. Bellush, owner: Request to Subdivide Town Tax Map/Lot #408-01, of 45.67 acres, into four lots of 18.79, 10.32, 8.09 & 8.47 acres each; with 1,670’ of shorefront on Crystal Lake subject to a private conservation easement. Property located on Mountain Road in the Rural Zone; PB#0508.

Ronald A. Johnson, L.L.S. was in attendance to present the proposed plan on behalf of the applicant. He referenced the Site Walk taken by the Planning Board and Conservation Commission on 5/1/08. Since the last meeting the plan has been updated to reflect test pit locations. This information was submitted to the State of NH-DES Sub-Surface Bureau last week. Three of the four lots will be subject to the restriction of “No Further Subdivision” with the exception of the remaining Lot #408-01 of 18.79 acres. The Conservation Easement area of approximately 18 acres consists of the entire length of the shorefront, totaling approximately 1,670’ and is mostly swampy, but there exist some uplands, which the applicant is asking the Gilmanton Conservation Commission to monitor. The property is subject to the Comprehensive Shoreland Protection Act (CSPA).

D. Guarino asked when the lots are this large is it a requirement that test pits be performed? Mr. Johnson explained that according to the CSPA, test pits would be required even if they were 100-acre lots because they are waterfront.

N. Girard referenced the Site Walk and stated that there were many signs that this property is a significant wildlife habitat and the proposal to subdivide it into large lots with a conservation easement is appropriate; especially with the wetlands present and potential impact to the waterfront.

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N. Mitchell, Chair, Gilmanton Conservation Commission (GCC) conveyed that she received permission from the applicant to communicate directly with Frederick Bergwardt, a friend of the applicant assisting with the Conservation Easement (CE) language. Nanci conveyed that the Planning Board was under the impression that no docks would be considered along the waterfront, and in an email from Mr. Bergwardt, it was suggested that the owners are planning to have docks as well as “paths to access the waterfront for picnicking, sunbathing and swimming”. She stated that they will need to cross wetlands to do this and it is not an appropriate location to do so. Nanci also expressed concern that timbering was included in the easement language as an allowed use, which is not recommended in accordance with the CSPA and with the wetlands on site.

N. Girard suggested that it was highly doubtful that the State would approve an application to permit a dock along the waterfront, which is quite shallow, marshy and mucky. Mr. Johnson agreed that it is unlikely and stated there is only about 2’ of water, it is marshland, and quite buggy along the waterfront.

N. Mitchell continued that the Commission does not want to see paths leading to the waterfront for pedestrian access through the easement area. She recently contacted Jason Bellush to discuss this further, and he hired an attorney to draft the CE language. Mr. Johnson offered to speak with the applicant and reiterate the unlikelihood of these objectives. N. Mitchell thanked him for offering to speak with him and suggested that if the GCC is going to monitor the CE, the fewer the activities allowed the better.

P. Gilman, GCC member, asked if it would be feasible to have one pedestrian path to access the shoreline? Mr. Johnson responded that he doesn’t think that the applicant would want the public using his lot for this purpose. The only access being proposed for use besides the property owners is the 20’ right-of-way located on Lot #408-01-03 for the GCC to access and monitor the Conservation Easement area.

Motion: D. Hudson moved to continue the public hearing until the next regularly scheduled Planning Board meeting on Thursday 6/12/08. P. Fecteau seconded, motion carried 4-0.

INFORMAL DISCUSSION – Ryan C. Benson: Follow-up discussion to review wetlands delineation for Site Plan on Town Tax Map/Lot #416-20 (property of Vayda) for BMMC Yard located on NH Route 140 East in the Rural Zone; PB#1407.

Mr. Benson was in attendance with an updated plan for his Contractors Yard located on NH Route 140 East. The application received conditional approval from the Planning Board on 10/11/07. At that time, the Board had granted a waiver that a survey be required unless it was determined that wetlands were present at a Site Walk, which was scheduled for 10/14/07.

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On 12/1/07 Cynthia Balcius, CWS, from Stoney Ridge Environmental was onsite to flag the wetlands. Ms. Balcius forwarded a report to the Planning Board on 12/20/07 indicating that she had been onsite, had identified and delineated the wetlands. When the Board reviewed the report and the Site Plan, it appeared that the gravel pad where the heavy equipment would be parked sat directly on the wetland.

The Board invited Mr. Benson to attend the 3/13/08 Planning Board meeting to inform him that the gravel pad needed to be moved back at least 20' from the wetland and recommended that the wetlands that were flagged needed to be formally recorded on a survey. Mr. Benson agreed and hired Richard D. Bartlett, Assoc. to pick up the wetland flags located on the property and to survey that portion of the Vayda property. Mr. Benson is before the Board tonight with a completed survey of that portion of the property used for the Contractors Yard, which depicts the wetlands delineation and setbacks.

N. Mitchell, GCC Chair, asked about diesel storage onsite. Mr. Benson stated that the 300-gallon diesel tank is set in a secondary cement block encasement, which is located on a cement pad. The tank is locked when he is not onsite. Nanci also noted that the site is 20' from the stonewall, which is the easterly property line; however, it is unknown whether wetlands also exist on the other side and she is concerned about that.

N. Mitchell asked what are the bins that are used to store materials in constructed of? Mr. Benson responded that the back wall of the bin will be 4' tall and created by 3' x 2' concrete blocks, with the front of the bin being shorter in order to access the material.

N. Mitchell asked if all equipment, buildings, materials, etc. will remain on the gravel pad and not end up in the wetlands? Mr. Benson reassured her that all his equipment is brand new and will not be maintained on site; he does not anticipate any leaks or spills. He continued that most of the time the equipment is not on site, it is on the job site. This is only a staging area and a place for his employees to meet. Nanci asked about the number of employees and the parking area. Mr. Benson conveyed that currently he has eight employees with four vehicles and they park in a 100 s.f. area. He continued that he wants everyone to be happy and invited both the Board and the Committee to come out to view the site anytime.

N. Girard stated that the survey is very helpful for both the Planning Board and Conservation Commission, and in the future, will be most helpful to the owner. She thanked the applicant for his patience and cooperation throughout this process.

D. Guarino expressed his concern about vandalism and asked if the site will be gated? Mr. Benson stated that he is considering a gate or chain across the driveway, but is not ready to propose one at this time. He will revisit the issue when he considers signage.

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L. Brunelle reminded the applicant that when he is ready to put up a sign he needs to return to the Board to consider size, location, whether it will be lighted, etc. He will also need a building permit to install the sign.

L. Brunelle informed the Board that she spoke with Cynthia Balcus, CWS, today regarding the wetlands delineation as depicted on the survey. Lynne had requested Ms. Balcus to email a report for the Board's review this evening indicating that the wetlands as shown on the plan accurately represent her placement of the flags during her site visit on 12/1/07 and that she will sign/stamp the final plan.

Discussion occurred regarding whether another public hearing needed to be held on the application. Planning Administrator Lynne Brunelle reminded the Board that conditional approval was granted in October contingent upon the results of the Site Walk. The survey presented tonight depicting the wetlands delineation is the direct result of that Site Walk and all other conditions have been met. The Board agreed that another public hearing was unnecessary and the applicant may submit a final plan for approval.

OTHER BUSINESS

Amendment to Article VII: Chairperson N. Girard updated the Board on the Joint Meeting with the Board of Selectmen, Planning and Zoning Boards on Monday 5/5/08 regarding the amendment to Article VII that was adopted at the March 2008 Town Meeting. It was agreed to rescind this amendment and post a Special Town Meeting to revert to the previous Article VII language. This would allow the Zoning and Planning Boards time to work together on the language over the next year before making any changes. The proposed timeline recommended by Town Counsel and supported by the Board of Selectmen is to hold a Special Town Meeting on Tuesday 7/22/08. This means that the Planning Board would hold their first public hearing on 6/2/08 with a second hearing on 6/16/08, if necessary.

N. Girard stated that tonight's discussion was not a public hearing and had not been posted as such. She conveyed that Brett and Brenda Currier had come to the meeting wanting to testify that they felt the Zoning Board of Adjustment (ZBA) was not approving applications consistently but based on who you are not what the application is for. ZBA member Wayne Gray was in attendance and was acknowledged by the Chair to speak to that statement. Mr. Gray somewhat agreed and stated that was one of the reasons why Dave Clairmont had asked him to consider sitting on the ZBA.

Discussion continued that the majority of zoning applications are requests to build on the small lots in the lake areas and it is very difficult to draft an amendment that applies to all non-conforming lot issues.

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D. Hudson conveyed that the Planning Board worked hard on the amendment and tried to address the issues based on the information provided, but the language was flawed; and he therefore supports the amendment as proposed by Town Counsel. At this time, Chairperson N. Girard asked for a motion.

Motion: D. Hudson moved that the Planning Board recommend that the Board of Selectmen hold a Special Town Meeting for the purposes of addressing the technical deficiencies in the amendment to Article VII that was adopted by Town Meeting on 3/11/08. The Planning Board proposes that the article be restored to the language which existed prior to the vote. P. Fecteau seconded, motion carried 4-0.

ADMINISTRATOR'S REPORT

Intent to Excavate – Goodwin: Planning Administrator Lynne Brunelle informed the Board that Ralph Goodwin has been selling gravel to the Town and recently submitted an Intent to Excavate. She stated that Mr. Goodwin needs to submit an application for an Excavation Permit as well as a Reclamation Plan. The Board asked Lynne to forward a letter to Mr. Goodwin informing him of the regulations.

A. E. Mitchell Gravel Site Inspection: Lynne informed the Board that in January the Board renewed Al Mitchell's Gravel Permit for another year pending a Site Inspection in the spring. She suggested the Board consider taking a Site Walk together, as it has been almost ten years since the pit was initially approved. Code Enforcement Officer (CEO) Bob Flanders is willing to accompany the Board on their inspection or perform his inspection separately. It was determined that the Board will hold a Site Walk on Thursday 6/12/08 at 5:30 p.m. before their meeting starts at 7:00. Lynne will forward a letter to Mr. Mitchell to determine that this date/time is convenient. She will also ask Bob if he would be able to attend. *(Due to a scheduling conflict, the site inspection was subsequently rescheduled for Thursday, July 10th).*

NEEM Gravel Site Reclamation: Lynne informed the Board that she asked CEO Bob Flanders to perform an inspection on the North East Earth Mechanics (NEEM) gravel site located on Sargent Road. Bob forwarded a memo to the Board reporting that some natural vegetation is established, however, there is no evidence of any loaming or professional stabilization. Some grass seed may have been planted, but there are no provisions for erosion control or silt fences. Therefore, sedimentation has run off into the wetlands. It is Bob's recommendation that the Planning Board call the bond on this project to restore the area according to the Reclamation Plan approved 11/10/05. The Board members agreed with Bob's recommendation and the following motion was made:

Motion: D. Hudson moved to call the bond on the NEEM Gravel Reclamation as per the Code Enforcement Officer's recommendation for purposes of reclaiming the gravel site located on the Dayne Thompson property on Sargent Road. P. Fecteau seconded, motion carried 4-0.

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Alteration of Terrain Permit - Rague: Lynne reported that she had requested Kurt Rague to submit the plans and supporting documents to the Town pertaining to the Alteration of Terrain (AOT) permit for Crystal Lake Farms. According to the engineer who prepared the permit, Jim Bolduc, P.E., this included an updated Stormwater Management Report. Mr. Rague only provided her with his copy of the plan that was dropped off at the office today at 4:25 p.m.; which didn't allow much time for review prior to tonight's meeting. She also requested that he provide copies of all supporting documents to the Town's engineer Hoyle, Tanner & Assoc. (HTA) which he refused to do. Selectmen's Rep D. Guarino informed the Board that Mr. Rague came into the Selectmen's Meeting Monday night (5/5/08) and asked why the Selectmen would not allow him to hire Fluet Engineering as the Town's third party engineer to oversee the construction of the road in conjunction with this project. The Selectmen decided to remain with HTA as previously contracted.

ADJOURNMENT

On a motion made by P. Fecteau and seconded by D. Hudson, vote passed unanimously. Meeting adjourned at 9:05 p.m.

Respectfully submitted,

Lynne R. Brunelle

The minutes were approved as amended at the Planning Board's 7/10/08 meeting.