

**TOWN OF GILMANTON PLANNING BOARD**  
**THURSDAY, JULY 12, 2007 – 7 p.m.**  
**APPROVED MINUTES**  
**ACADEMY BUILDING**

**Present:** Chairperson Nancy Girard (arrived late), Vice-Chair John Funk, Selectmen's Representative David Clairmont, Felix Barlik, Dan Hudson, Doug Isleib, David Russell, Alternate Member Marty Martindale, Alternate Selectmen's Rep Don Guarino; and Planning Administrator Lynne Brunelle.

**Absent:** Alternate Members Pam Fecteau & Monica Jerkins

Vice-Chair J. Funk informed those present that Chair N. Girard would be arriving late and therefore he would serve as Acting Chair until that time. He opened the meeting at 7:03 p.m. and explained public hearing procedures.

**ACCEPTANCE OF MINUTES:** The Board members reviewed the minutes from the June 14, 2007 meeting. **Motion:** D. Russell moved to accept the minutes of 6/14/07 as amended, seconded by F. Barlik. Motion carried 6-0.

**CONTINUED PUBLIC HEARING – Michael D. & Patricia R. Levesque:** Request to Subdivide Town Tax Map/Lot #409-32, of 48 acres, into two lots of 5 and 43 acres each. Property located at 41 Gale Road in the Rural Zone; PB#0707.

Jeffrey Green, L.L.S., was in attendance to present the updated plan to subdivide the parcel of approximately 48 acres into two lots, yet the proposed acreage and frontage amounts remain the same. The five-acre parcel will have 393.72' of road frontage on Gale Road, a Class V Road, and will encompass the existing house, barn, shed and driveway. The remaining land of 43 acres will have 402.04' of frontage on Gale Road, as well as 380' of frontage on Hill Top Farm Road, a Private Road.

Changes to the plan include the proposed access for the 43-acre lot was relocated from the house lot to the new lot. However, a 20' driveway easement is to be granted for access to the backland at approximately 170' along the southwest boundary in order to circumvent the wetlands located on that lot. It was noted that this is an existing woods road. The 10' easement along the northeast boundary line will not be used as a driveway to access the building site. The plan also depicts topos, wetlands delineation and soils information for the five-acre lot and the front portion of the 43-acre lot.

D. Isleib asked if the minimum 30,000 s.f. contiguous area had been calculated and if that area was shown on the plan? Mr. Green responded that it came to about 21,900 s.f. due to the wetland areas, but he did not put it on the plan.

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J. Funk stated that the Board performed a Site Walk on Thursday, June 28<sup>th</sup> and noted that it was not wet near the road. The wet area is actually a beaver pond, however the Board did not walk back there to view a potential building site due to the dense vegetation. Mr. Green stated that the land slopes up from the beaver pond, that it is high-and-dry, and there shouldn't be a problem locating a building site there.

D. Russell asked what the status is on Hill Top Farm Road? Mr. Green responded that he knows it isn't a Discontinued Road. He spoke with the Road Agent who said it is not town-maintained. Mr. Green believes that since it was once a Range Way that it be considered the same as a Class VI Road where the rights revert to the landowners.

Discussion continued regarding the fact that Allan Kingsbury, an abutter, was required to upgrade 125' of the road to town standards; therefore, one would assume that at least this portion of the road was once considered a town road. Further, there may be no ownership of the road at all and it could have been discontinued, although there is no record of it.

J. Funk asked who owned the property prior to the Dockham's and was there an existing dwelling when purchased? Dan Dockham, abutter, was in attendance and stated that they bought the land in 1976 as the Weeks Farm and there were existing buildings, but the Dockham's also built there.

D. Clairmont stated that he doesn't think this is an issue with this application. J. Funk agreed that the Levesque's had more than adequate frontage on Gale Road and no building lots are being proposed on Hill Top Farm Road; however, even though it is not an issue at this time, it may become an access issue at a later date.

F. Barlik stated that he did not go on the Site Walk and asked what the topography is like on that end of the property? Mr. Green stated that there is some ledge and then it slopes down with some seasonal run-off toward the beaver pond. The soils indicate that there is buildable land between the pond and the steeper slopes. It was noted that at the Site Walk, the Board did not feel it necessary to view the frontage on Hill Top Farm Road.

F. Barlik asked Mr. Green to describe the soils data as depicted on the plan, as follows:  
380B - Tunbridge-Lyman-Beckett Complex – 3 to 8% Slopes, Very Stony  
395 – Chocorua – Mucky Peat  
480C – Millsite-Woodstock-Henniker Complex – 8 to 15% Slopes, Very Stony  
478B – Dixfield Variant – Variant Fine Sandy Loam, 3 to 8% Slopes  
647B – Pillsbury Fine Sandy Loam, 3 to 8%, Very Stony

D. Hudson indicated that the soils data appears to be incorrect on the lower right corner of the 43-acre lot. Mr. Green will review the information and correct the plan.

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Mr. Levesque, applicant, indicated that according to his deed, his property is described from Gale Road to Range Road and back to Gale Road. If Hill Top Farm Road is a Private Road, wouldn't he own to the centerline of the road? In addition, Mr. Levesque stated that the potential buyer is not interested in building on Hill Top Farm Road. He continued that the proposal meets the minimum requirements with 43 acres and 400' of frontage on Gale Road and he would like to move forward with the subdivision.

Gilmanton Conservation Commission (GCC) Chair, Nanci Rae Mitchell, suggested that the wetlands located on the other side of the beaver pond are delineated not only for the contiguous buildable area, but also so a wetlands crossing may be determined. She wouldn't want the new driveway to end up underwater.

D. Clairmont stated that he was on the Site Walk and recalls that the woods road goes uphill. He estimates that the intersection of the boundary and driveway is 10' higher than the pond. He also noted that it sloped upward from there and is sure that there is an appropriate building site behind the beaver pond. F. Barlik agreed and stated that a beaver pond is subject to change, and if the access is high-and-dry, then a wetlands delineation is moot.

J. Funk addressed the fact that this access is currently used as a woods road and asked the applicant if there exist any problems or issues with the road. Mr. Levesque responded that he has no problems, except in the spring when it gets muddy.

N. Mitchell clarified that her concern isn't with the existing road but with the potential wetlands crossing to access the building site. Mr. Green stated that there is a 10-15' area where it is wet and there is an existing culvert located there.

J. Funk asked Mr. Green to depict the 30,000 s.f. area without the wetlands or steep slopes so the Board is certain that it is an adequate building site. N. Mitchell asked that if a wetlands crossing is needed to please show that on the plan. In addition, the final plan must have the stamp/seal of the Certified Wetlands Scientist, as well as a line depicting the limit of the wetlands delineation.

Mr. Levesque stated that the water level in the beaver pond was different last year than this year, and that he could change that by simply removing the dam, but he has encouraged the beavers to be there. He doesn't understand why the Board needs proof that a house can be built on 43 acres of land and it's going to cost him another \$3,000 or \$4,000 to have his surveyor go back out there to do that. He is a logger and can't afford to do this. He thinks this is ridiculous for a small town like Gilmanton to require it.

Acting Chair J. Funk stated that he understands the applicant's point; however, the contiguous 30,000 s.f. requirement is consistent with the Subdivision Regulations to be shown on the plan.

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Zannah Richards, realtor, was in attendance and feels that a lot of time and energy has been exerted on this application, i.e. a Site Walk, two meetings, etc. The application seems clear and simple to her, so why waste more time, energy and resources?

D. Clairmont asked Mr. Green if the contiguous area was calculated for the front right corner of the property and apply only wetland setbacks? Mr. Green stated no, he assumed that this area would not meet the regulations and therefore did not perform the calculations. Planning Administrator Lynne Brunelle recalls that the Board did ask Mr. Green whether the 30,000 s.f. area could be achieved in the field, but unfortunately, the suggestion to waive the setbacks was not mentioned. Mr. Green stated that if the front and side setbacks were waived, the contiguous area would be at least 30,000 s.f.

**Motion:** D. Isleib moved to close the public hearing, seconded by D. Hudson. Motion carried 5-0.

At this time, N. Girard arrived and assumed the Chairmanship. J. Funk recused himself from the next public hearing as he currently has a professional relationship with the applicant.

**PUBLIC HEARING – Paul M. & Carol G. Darbyshire:** Subdivide Town Tax Map/Lot #414-74, of 24.4 acres, into three lots of 3.04, 9.48 & 11.90 acres each. Property located on NH Route 140 in the Rural Zone; PB#0807.

Paul Darbyshire, L.L.S. was in attendance to present the proposed plan to subdivide his property on NH Route 140, located opposite Sawtooth Road. The plan depicts topos, soils, wetlands delineation and test pit information. There is a discontinued road that abuts the property on the western boundary. With the exception of the front, the other property lines are bounded by stone walls. Proposed Lot 1, of 3.048 acres and 215' of frontage, has 43,170 s.f. of contiguous area and an existing driveway, which is a shared access with Lot 2, of 9.485 acres, 200' of frontage and 50,596 s.f. of contiguous area. He continued that Lot 3, of 11.901 acres and 380' of frontage will achieve 28,285 s.f. contiguous area if the front site is utilized and 75,839 s.f. if the back site is used. Mr. Darbyshire stated that he would prefer to use the existing driveway for Lots 1 & 2 than construct a new one that meets the required 10% slope. There are areas that exceed the 10% slope, some as much as 16%. He indicated that permits have been received from the State of NH Dept. of Transportation (DOT) for both driveways. State of NH DES Wetlands permitting will be required for both driveways. Additionally, State of NH DES Subdivision approval will be required for Lot 1 because it is less than five acres.

It was noted that a Site Walk occurred on Thursday, June 28, 2007. Mr. Darbyshire also accommodated Board members on a Site Walk this evening at 5:30 p.m.

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D. Isleib asked what would the slope of the new driveway be for Lot 1? Mr. Darbyshire indicated that the slopes on that lot are about 16% and that driveway would be approximately 400' long.

D. Guarino asked about the 28,285 s.f. area as well as the driveway length and slope for Lot 3. Mr. Darbyshire responded that the contiguous area was calculated with all setbacks included. The length of the driveway would be approximately 500' for the front site and 1,000' for the back.

GCC Chair N. Mitchell expressed concern with the steep slopes and wetlands on site in that erosion and sediment control measures must be established during site improvements and driveway construction, especially if vegetation is disturbed.

D. Hudson agreed and stated that this isn't just for newly constructed driveways but also for the existing one. His concern is ice in the winter and run-off in the spring. D. Clairmont agreed and is also concerned with snow and ice on a 16-18% slope.

Planning Administrator Lynne Brunelle reminded the Board that in previous subdivision approvals the Board has required engineered driveway profiles, driveway maintenance agreements, sedimentation and erosion control plans, guardrails, etc.

**Motion:** D. Isleib moved to close the public hearing, seconded by D. Russell. Motion carried 5-0.

**PUBLIC HEARING – Harold & Priscilla Towne:** Boundary Line Adjustment to transfer 3.8 acres from Town Tax Map/Lot #415-26 of 7.2 acres, to Tax Map/Lot #415-25 of 11.8 acres. Property located 1525 NH Route 140 in the Rural Zone; PB#1007.

Steve Kosusko, L.L.S. was in attendance to present the proposed plan. Also in attendance was Harold Towne, applicant. Mr. Kosusko explained the proposal is to transfer 3.8 acres from Lot 415-26 of 7.2 acres with the existing house and 355' of frontage on NH Route 140, to Lot 415-25 of 11.8 acres with the existing barn and 613' of frontage. The transfer also includes approximately 31' of road frontage from Lot 415-26 to Lot 415-25 and a proposed driveway easement to benefit Lot 415-26. The existing driveway is a shared access and has been permitted by the State of NH DOT. The reason for the transfer of land is because the owners, Harold and Priscilla Towne, currently have their house up for sale located on the 7.2-acre lot and plan to construct a new home on the (new) 15.6-acre lot. The new lot lines for Lot 415-26 will be bounded by existing stonewalls. There is currently a septic design for the facilities located in the existing barn on Lot 415-25. There is a new septic design for the proposed house on that lot as well, the test pit is depicted on the plan.

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D. Clairmont asked about the proposed slope of the new driveway because it appears to be 15-17% slope. Mr. Towne stated that the existing driveway located on Lot 415-26 is less than 10% and the proposed driveway will meet the 10% and will be proportioned with the septic and the house.

D. Hudson inquired about the protective well easement as depicted on the plan for Lot 415-26. Mr. Kosusko stated that a portion of the 75' well radius falls onto the new lot. D. Hudson also asked why the proposed boundary line is 10' off the stonewall and not the stonewall itself like the other lot lines? Mr. Towne stated that in the event there are trees that the new owner wanted to cut back from the wall, they could do so without infringing on the other property.

D. Guarino asked if another house could ever be located above or behind the existing house and/or well? L. Brunelle informed the Board that the previous subdivision plan had a stipulation that "No Further Subdivision" occur on either of these lots and she recommended in the staff report that this restriction be repeated on this plan, thus, reducing the chance of a septic or leach field being located on ledge behind the existing house. Furthermore, the previous plan also depicts the location of the houses for each lot, which should be carried forward onto the new plan as well.

Mr. Towne noted that one of the reasons for the configuration of the boundary lines is so he may put a gazebo up on the ledge to the back of the lot where there are 360 degree views.

**Motion:** D. Russell moved to close the public hearing, seconded by D. Isleib. Motion carried 6-0.

**DECISION – Levesque Subdivision:** The Board discussed the Hill Top Farm Road issue. Planning Administrator Lynne Brunelle informed the Board that her research resulted with the same conclusion that the Dockham's attorney, Stephan Nix, did that it is a Private Road because there is no record that it was ever a Class V (town) road; therefore, it cannot be a Class VI Road. There are no records indicating that it was discontinued or abandoned; only that it is a privately maintained road. It was agreed that the status of the road really doesn't apply at this time, as the applicant has the adequate frontage on Gale Road. Further deliberation rendered the following decision:

**Motion:** J. Funk moved that in accordance with Section III.A. of the Gilmanton Subdivision Regulations the Board made the following findings that the proposed subdivision would not adversely impact:

1. The adequacy of water supply, drainage, sewage disposal and streets.

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2. The ability of the town to provide street maintenance and snow removal, schools, fire protection and other services without excessive expenditure funds.
3. The provision for the harmonious development of the town and its environs.
4. The preservation of wildlife habitat, natural and man-made features and open space.
5. The character and use of land and buildings in the general vicinity of the proposed subdivision in evaluating the suitability of the subdivision.
6. The 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.

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

**Motion:** J. Funk moved that in accordance with Section VI.C.2. of the Subdivision Regulations, the Board waive the building setback exclusion from the 30,000 s.f. requirement for Lot #409-32.1; and therefore only wetland setbacks be included in this calculation. D. Russell seconded, motion carried 6-0.

**Motion:** J. Funk moved to accept the application as complete and to 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 this office 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 to include:
  - (a) the final plan shall be stamped and signed by the Certified Wetland Scientist and shall depict the limits of the wetlands delineation;
  - (b) the final plan shall depict the 43-acre lot as Tax Map/Lot #409-32.1;
  - (c) the final plan shall depict accurate soils classification(s) for Lot #409-32.1, specifically, soil type 647B instead of 478B.
  - (d) the contiguous area calculated in accordance with Section VI.C.2. of the Subdivision Regulations shall be shown on Lot #409-32.1.

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3. The final plan shall contain the restriction that any access from Gale Road to the building site(s) shall be from the proposed driveway as shown on Lot #409-32.1, and further, that the existing right-of-way that is located outside the boundary of Lot #409-32.1 shall not be used as a driveway for the location of any building site(s) to the rear of that lot.
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 or staff to confirm that conditions have been complied with.
5. 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:

6. 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.
7. 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.
8. All temporary erosion control facilities shall be removed upon attaining permanent stabilization.

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

9. 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.
10. 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.

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**DELIBERATION – Darbyshire Subdivision:** Discussion occurred regarding the steep slopes located on the property, the slope of the existing driveway and the concern of emergency vehicle access. Some Board members expressed concern regarding setting precedent if a waiver is granted allowing a driveway slope exceeding 10%.

The Board was reminded that a subdivision on Meadow Pond Road was denied due to 15% slopes and concern over whether emergency vehicles could access the proposed steep driveways. Deliberation continued and it was determined that additional information would be required in order for the Board to accept the application as complete and before conditional approval could be granted. Therefore, the Chair entertained a motion to re-open the public hearing so that this information may be requested from the applicant.

**Motion:** D. Russell moved to re-open the public hearing so that additional information may be obtained, seconded by D. Isleib. Motion carried 6-0.

The Board requested that revisions be made to the plan pertaining to driveway profiles addressing the minimum 10% slope as required by the Subdivision Regulations, to include a written report from the Fire Chief. In addition, an erosion and sedimentation plan shall be submitted addressing run-off and stabilization issues, with and without an asphalt driveway surface.

**Motion:** D. Isleib moved to continue the public hearing until the next regular meeting scheduled for Thursday, August 9, 2007. F. Barlik seconded the motion, vote passed 6-0.

**DECISION – Towne Boundary Line Adjustment:** The Board deliberated this application and the following decision was rendered:

**Motion:** D. Russell moved to accept the application as complete and to 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 this office prior to the recording of the plat or issuance of a Building Permit.

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2. Submission of final plans in accordance with the Town Ordinances and Regulations, as follows:
  - (a) final plan shall depict the restriction “Not to be Further Subdivided” on both lots;
  - (b) final plan shall depict “Proposed House to be Located in this Area” on both lots.
3. Final plans will not be recorded until the transferring deeds are also signed and ready for recording.
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/or any conditions of approval.
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 staff to determine if the conditions have been complied with.

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

6. 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. The driveway shall meet the requirements of Section VI.B.12 of the Subdivision Regulations and shall not exceed a slope of 10%.
7. 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.
8. 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:

9. 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.

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

J. Funk seconded the motion, vote passed 6-0.

**ADMINISTRATOR'S REPORT**

**Wilkins Boundary Line Adjustment:** Planning Administrator Lynne Brunelle informed the Board that the Zoning Board of Adjustment granted the Variance for Joanne Wilkins (Laurose MacFayden Trust) to keep the 1.1-acre house lot separate from the 99-acre woodlot. Her next step is to submit an application and plan to the Planning Board for the Boundary Line Adjustment. Lynne noted that a reference was made in the Selectmen's minutes regarding this case that may require clarification. N. Girard explained to Selectmen's Rep D. Clairmont that before the Planning Board could approve the Boundary Line Adjustment, the ZBA had to grant a Variance, even though it is a pre-existing non-conforming lot.

**Informal Discussion for Cell Tower:** Lynne informed the Board that she received a call from Jim George of Industrial Communications who asked that the Informal Discussion be scheduled for the August Planning Board meeting.

**NFIP:** Lynne informed the Board that the Fire Chief inquired about the status of the NFIP. She stated that the Board needs to schedule a public hearing in order to amend the Subdivision Regulations and finalize the NFIP language. N. Girard suggested we schedule a Work Session to review all the amendments and proposed language before the Public Hearing.

**ADJOURNMENT**

On a motion made by F. Barlik and seconded by D. Russell, vote passed unanimously. Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Lynne R. Brunelle