

TOWN OF GILMANTON PLANNING BOARD
THURSDAY, JULY 16, 2009
MINUTES OF MEETING
UPSTAIRS - ACADEMY

Present – Planning Board: Chair Nancy Girard, Vice-Chair John Funk, Dan Hudson, David Russell, Selectmen’s Alternate Rep Betty Ann Abbott, and Planning Administrator Lynne Brunelle. **Absent:** Selectmen’s Representative Don Guarino, Marty Martindale

Present – Zoning Board: Chair Elizabeth Hackett, Paul Levesque, Israel Willard, Alternate Member Wayne Gray, and Land Use Clerk Annette Andreozzi.

ZBA Chair E. Hackett opened the Joint Hearing, introduced the Board members and explained public hearing procedures. She then appointed ZBA Alternate Wayne Gray as a full voting member for this meeting. Planning Board Chair N. Girard in turn appointed Selectmen’s Alternate Rep B. Abbott as a voting member for tonight’s meeting.

JOINT HEARING – Laurie Henderson, owner/applicant; PB #1209: Site Plan Review from Planning Board & Special Exception from ZBA to operate Child Care Facility at 120 Middle Route, Map/Lot #409-76, of 122 acres located in the Rural Zone.

Laurie and Robert Henderson were in attendance. Mrs. Henderson distributed her business plan for Thistle & That Farm, LLC and stated that their ultimate goal is to provide Pony Parties, Horsemanship & Riding Lessons, a Craft Collective and an In-Home Childcare Program (Edu-Care). At this time, their main objective includes: *“promoting Thistle & That Farm in a way which will provide the community with an array of opportunities to experience farm life on-site... to begin this process by the implementing equine pursuits which include but are not limited to: pony parties, after-school horsemanship lessons, and summer riding programs.”*

As referenced in the previous hearing for an Appeal from Administrative Decision, Mrs. Henderson referenced RSA 21:34-a, which identifies these uses as agricultural. In accordance with the State and Town Regulations, ZBA approval is not required for such uses. She mentioned the fact that the Town’s Code Enforcement Officer (CEO) defined the above-mentioned use as “Childcare” and she didn’t want to confuse the Boards as to what she was actually applying for.

Mrs. Henderson continued that she considered rescinding her application for Childcare because the Hendersons would prefer to focus on their farm and horses at this time. However, she did submit an application for an In-Home Childcare Facility and it has been posted and noticed as such; therefore, she decided to move forward with the application.

E. Hackett asked the applicant if it would be reasonable if the Special Exception is granted with the condition that the “Multi-Purpose Room” (located in the ell of the house) be finished up to the Building Code? Mrs. Henderson responded, yes, that is absolutely acceptable as she is not attempting to avoid proper permitting or fees, she just would like the CEO to be fair about it.

J. Funk referenced the business plan and the submitted Site Plan application and expressed confusion as to which application is being heard tonight?

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Mrs. Henderson responded that the request before the Boards tonight is a Special Exception and Site Plan Review for the Childcare only, which is the last facet of her business plan. This is the reason why she separated each objective out so it would be less confusing. She added that the other three objectives do not require ZBA approval.

Discussion occurred whether all proposed uses should be applied for at once. J. Funk believes that the Pony Parties fall under the definition of "Home Occupation", Horsemanship & Riding Lessons fall under the RSA &/or definition of "Agricultural Use", and the Craft Collective, as described, is a "Home Occupation" and/or "Agricultural Use". These uses may still require Site Plan Review by the Planning Board; however, the only proposed use being presented to the Joint Boards this evening is the In-Home Childcare.

D. Hudson expressed that it is not clear as to which "Childcare" application Mrs. Henderson is addressing because if the ZBA denies the applicant's Appeal from Administrative Decision and agrees with Bob Flander's interpretation that the Pony Parties are considered "Childcare" then the Board(s) should be reviewing that aspect of the definition. As per the Town's Zoning Ordinance a "Childcare Facility" is defined as *"a childcare agency licensed by the State of NH in which childcare is provided for any part of the day for five (5) or more children."*

Mrs. Henderson explained that she would utilize the multi-purpose room for a three- and four-year old setup as a preschool, maybe three days a week, mornings only. There is a totally separate entrance to that room from the parking area and therefore the children &/or parents do not need to go through the house to access that room. She further explained that the room is currently being renovated and is certainly not dangerous as the CEO testified.

D. Hudson addressed the "fire pond" depicted on the Site Plan and the fact that the Fire Chief had indicated the pond is not appropriate for use as a fire pond. Mrs. Henderson confirmed this and conveyed that the Fire Chief plans to remove the dry hydrant. The Planning Board requested that the term "fire pond" be removed from the Site Plan.

J. Funk inquired about parking and traffic flow. Mrs. Henderson indicated that the current Site Plan is an updated version of the previously approved Bark & Bradley Site Plan, depicting two separate entrances and two parking areas. There is a 40' x 60' gravel area, which is closest to the house, showing four parking spaces. This is where the drop-off and pick-up for the Daycare would most likely be located. There is another gravel area of approximately 50' x 50' with a minimum of four spaces as well as room on the other side of the barn. This is where the Craft Collective parking would most likely be located. Mrs. Henderson indicated that she would not have the Daycare and Craft Collective occurring at the same time; the Daycare would be on weekday mornings and the Craft Collective would be on weekends; therefore, there is sufficient parking for each use.

I. Willard inquired about the "drive-thru" depicted on the plan connecting the two parking areas and asked if it is large enough for a fire truck? Mr. Henderson responded that he doesn't think so, but he hasn't measured it out; however, there is sufficient area for a fire truck to turn around in either parking lot. I. Willard asked if the Fire Chief has seen the plan?

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Mrs. Henderson doesn't think so, but L. Brunelle confirmed that the Fire Chief did receive a copy as part of the Site Plan Review process. The Fire Chief will most likely attend the Site Walk, if one is scheduled.

J. Funk asked if the space between the parking lots, behind the barn and between the paddock could be reconfigured in order to accommodate additional parking? Mrs. Henderson responded that one area is where the septic system is located and the other is their winter paddock, so it is unlikely. N. Girard suggested that the Board look at potential alternate parking when on the Site Walk.

Bob Flanders made reference to a new septic design that he believes was approved before the Hendersons purchased the property. He suggested that the Board require that the Site Plan be reconfigured to consider the new design. Mrs. Henderson conveyed that they had Tom Varney, P.E. design a new septic system after they purchased the property and the Site Plan reflects this. At this time, L. Brunelle produced a copy of the septic plan designed by Tom Varney dated 6/10/05. The new plan indicates that an existing shed would need to be removed if the new system is installed; however, this is a back-up plan and the existing system does not need to be upgraded at this time.

Motion: P. Levesque moved to close the public hearing for ZBA Case #11-2009. I. Willard seconded, vote passed unanimously.

Motion: J. Funk moved to continue the public hearing for Planning Board Case PB#1209 until the next regularly scheduled meeting to allow the Board opportunity to perform a Site Walk of the property. B. Abbott seconded, motion carried 4-0.

The Site Walk was scheduled for 6:15 on 8/13/09, the same night as the meeting. L. Brunelle informed the Board that the Board already scheduled a Site Walk for the Welch/Coulstring application for 6 p.m. N. Girard asked Lynne to contact the applicants and ask them to reschedule the Site Walk to 5:45 p.m.

JOINT HEARING – Anne Bartlett, PB#1309: Site Plan Review from Planning Board & Special Exception from ZBA to operate Retail Business in the Village Zone. Property located at 525 Province Road (the “Brick House”) of 1.68 acres, Tax Map/Lot #127-08.

D. Hudson recused himself from the hearing due to conflict of interest. J. Funk recused himself as a direct abutter. It was determined that a quorum was not present and therefore the Planning Board could hear the application but could not make a decision this evening.

Zannah Richards, realtor and applicant's agent, was in attendance to present the proposed plan. Applicant Anne Bartlett was also in attendance. Ms. Richards explained that with Lynne's assistance, she performed a lot of research on the existing files pertaining to this property, specifically, previous approvals granted by the ZBA and Planning Board. Due to the fact that the use as a Retail Business had ceased for over a year, she learned that a Special Exception is required as well as Site Plan Review. Ms. Richards conveyed that no changes are being made to the existing Site Plan, which was originally approved on 12/18/95.

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The applicant is proposing no further changes to the site and all necessary approvals have been received from State of NH DOT and DES. Ms. Richards continued that the Special Exception should be granted because according to the Master Plan, the Town encourages business growth in the Village Zones, and in this instance, she feels that the Brick House is the “Heart of the Village” and it is an appropriate use. All abutters have approached the applicant to express how pleased they are that the Brick House is in use again.

At this time, ZBA Chair E. Hackett read letters of support from abutters David & Mary Nagel and John & Holly O’Shea. Abutter J. Funk was in attendance and conveyed that he fully supports the proposal and thinks it’s wonderful to have The Brick House back in business.

E. Hackett asked if the proposed Retail Business the same type as the previous? Mrs. Bartlett responded that it will be the same as Doug Towle’s antique shop, even the original sign will remain. A copy of the sign’s description and measurements was included in the Board members’ packets. E. Hackett indicated that the sign measures 38”x 30”, which exceeds the ordinance and it is therefore not in conformance. Planning Administrator L. Brunelle informed the Board that the sign is pre-existing and the applicant would be required to obtain additional approvals from the ZBA and HDC if the Board deems it as non-conforming. After further review and discussion, it was determined that that the sign does conform with Zoning Ordinance Article III.F.8. which states that signs “*shall not total more than nine (9) square feet per side in area*”.

With no further questions from the Board or members from the public, Ms. Bartlett asked if she could open the shop? N. Girard informed her that the Planning Board couldn’t grant an approval without a quorum present. Discussion ensued whether the Alternate Planning Board member should be contacted so that the Board could vote on the application this evening. N. Girard then asked D. Hudson the reason for his recusal? Dan informed the Board that at one time, his wife had a discussion with the applicant regarding potentially incorporating a small gourmet coffee café within the antique shop, and Ms. Bartlett chose not to consider it. All Board members agreed that this does not constitute a conflict of interest. Therefore, the Chair suggested that he be reinstated as a full voting member for this hearing.

Motion: N. Girard moved to reappoint D. Hudson as a full voting member for Planning Board Case PB#1309, as the Board determined there is not a conflict of interest. D. Russell seconded, motion carried 3-0.

Motion: P. Levesque moved to close the public hearing for ZBA Case #13-2009, seconded by I. Willard. Motion carried unanimously.

Motion: B. Abbott moved to table the discussion on Planning Board Case PB#1309 to allow the Board to reconvene to another room, seconded by D. Russell. Motion carried 4-0.

Recess & Reconvene:

The Planning Board took a brief recess and reconvened in the downstairs conference room.

J. Funk recused himself from the discussion and vote on the application, as he is a direct abutter.

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Motion: B. Abbott moved to close the public hearing for Case PB#1309, seconded by D. Hudson. Motion carried 4-0.

Motion: D. Russell moved that the Board make the following findings as they pertain to Planning Board Case PB#1309 for “The Brick House Antiques”:

1. The submitted Site Plan is the same plan originally approved by the Planning Board on 12/18/95.
2. No new changes are being proposed to the site or the plan.
3. The Board is familiar with the site and it was therefore determined that a Site Walk was not necessary.
4. Any other concerns will be addressed by the ZBA within their decision to grant the Special Exception.

D. Hudson seconded the motion, vote passed 4-0.

Motion: D. Russell moved to grant the request to waive Section VII.B.3.c.e.h.i.r. of the Site Plan Regulations requiring that the plan be prepared by a licensed land surveyor at a scale of 1” = 20’ showing a proximity map, all boundary lines, wetlands delineation, topographic and contour lines because the building is existing and no additional development is being proposed. D. Hudson seconded, motion carried 4-0.

Motion: D. Russell moved that the Board accept Planning Board application PB#1309 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 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.
2. Submission of final plans in accordance with Town Ordinances and Regulations with the exception of any waivers that may have been granted.
3. Landscaping and screening shall be in conformance with the Site Plan Review Regulations and depicted on the final plan.
4. Any exterior lighting shall be shielded from abutters and traffic and shall be depicted on the final plan.
5. Any additional signage shall be in conformance with the Town Ordinances and Regulations, and its location shall be depicted on the final plan.
6. Any proposed garbage collection and/or storage areas shall be screened, shall be located on a solid cleanable surface, and its location shall be depicted on the final plan.

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7. Applicant is responsible for the payment of any fees required by the Belknap County Registry of Deeds (BCRD) for recording the Planning Board's Notice of Decision for the Site Plan.
8. 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.

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

9. 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.
10. The use of the property is limited to those indicated in the applicant's testimony at the public hearing, within the submitted documents and in accordance with any conditions set forth by the Zoning Board of Adjustment in granting the Special Exception of 7/16/09. Any other use(s) require further review and approval by the Planning and/or Zoning Boards.
11. 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.
12. The Planning Board shall have the power to modify or amend its approval of a Site Plan upon its own motion to do so.
13. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSAs.

B. Abbott seconded the motion, vote passed 4-0.

OTHER BUSINESS:

UNH Intern - Natural Resource Audit: L. Brunelle referenced the memo and report from Jill Scahill, the UNH Intern performing the NRA for the Town. She asked that all Board members provide her with feedback as to what they would like to see in the final draft report by 7/30/09 so that Lynne can email a collective memo to Jill prior to the August 13th meeting. Lynne suggested that, based on the information provided by the NRA, this may be time to begin discussion on the Ground Water Withdrawal Ordinance (GWWO). It was noted that although a vote at the 2006 Town Meeting requires the Town to adopt a GWWO, it would be the Board's preference to consider an Aquifer Overlay Protection District.

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Gilmanton Community Church: Lynne reported that the Gilmanton Community Church has submitted a Site Plan application to utilize the old fire station in the Iron Works (currently D&S Designs) as the Church's Food Pantry and Thrift Store. She asked the Board's opinion as to which use should be applied for in accordance with Zoning Ordinance Article IV, Table 1. It was the consensus of the Board that the description closest to what is being proposed would be a Retail Use.

Lemieux Site Plan: Lynne informed the Board that the final Site Plan for Lemieux was submitted for final approval and signature at tonight's meeting.

ADJOURNMENT

On a motion made by D. Russell and seconded by D. Hudson, vote passed unanimously. Meeting adjourned at 10:25 p.m.

Respectfully submitted,

Lynne R. Brunelle