

TOWN OF GILMANTON PLANNING BOARD
THURSDAY, JULY 9, 2009
MINUTES OF MEETING
ACADEMY – 7 p.m.

Present: Chair Nancy Girard, Selectmen’s Representative Don Guarino, Dan Hudson, Marty Martindale, David Russell, and Planning Administrator Lynne Brunelle.

Absent: John Funk

PUBLIC HEARING – Thomas W. Argue; PB#1009: Merge Map/Lots #416-02, 03 & 04 of 1.305, 1.425 & 1.144 acres to total 3.874 then Subdivide into two lots of 1.926 & 1.946 acres each. Property located on Mountain Road in the Rural Zone.

Thomas Argue was in attendance and explained that his surveyor, Dennis Rialland, had submitted an application for Subdivision where the proposal should really be viewed as a Boundary Line Adjustment. The applicant’s goal is to take three non-conforming lots and create two conforming lots, as there are approximately ten acres of marshland that should have been included in the acreage calculations. With that being said, Mr. Argue decided to withdraw this application and submit a new plan and application for the next meeting.

Motion: D. Hudson moved to close the public hearing for Planning Board Case #1009, seconded by M. Martindale. Motion carried 4-0.

PUBLIC HEARING – Pamela Welch, applicant, for Denise Coulstring, owner; PB#1109: Site Plan Review to operate Consignment Shop in existing garage on Map/Lot #115-02, of .940 acres, located at 1795 NH Route 140 in the Village Zone.

Both Ms. Welch and Ms. Coulstring were in attendance to present the hand-sketched plan for a consignment shop “To Be Continued”. The existing paved driveway will be utilized for outside display space and parking. Ms. Welch stated that they are in the process of delineating a handicapped parking space on the left side of the driveway. The remaining driveway area will be used for turning, as parking is located to the right of the driveway where five spaces will be available on a grassy area.

D. Hudson asked if there are separate driveways? Ms. Welch responded yes, there is a driveway for the house and another separate driveway for the garage (shop). There are granite posts along the front of the lot and in between the two driveways.

N. Girard asked the applicant what type of goods are they proposing to sell and whether there will be separate bathroom facilities? Ms. Welch responded that they sell second-hand items such as housewares, toys, woodcarvings, etc. and there aren’t any public facilities being proposed.

D. Guarino referenced the location of the proposed handicapped parking to be directly in front of the garage doors and its relation to traffic patterns, overflow parking, etc. N. Girard agreed with his concern and suggested that the applicant place a barricade or barrels around the handicapped spot for safety purposes.

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D. Hudson referenced the driveway sight distance of 800' and asked the applicant if they already applied for a change of use permit from the State of NH DOT? Ms. Welch responded that they have not, as they were unaware that they needed to do so. It was noted that since there are already two driveways in existence, only one may require a change of use.

D. Hudson asked if parking in the grassy area is seasonal? Ms. Welch responded they don't know how they'll address winter parking as they're still working out the kinks and aren't sure if they'll even remain open during the winter.

The applicant was informed that the final plan needs to show all setbacks, lighting and signage. At this time, no lighting is being proposed; however, if the applicants intend on holding evening hours, there is a streetlight in front of the house that may provide adequate light. The applicants are still considering signage.

The Board members agreed that it would be helpful to take a Site Walk. This was scheduled for Thursday, August 13th at 6 p.m. to immediately precede the meeting. *The Site Walk was subsequently rescheduled for 5:45 p.m. on 8/13/09 in order to accommodate another Site Walk scheduled for that evening.*

Motion: D. Hudson moved to continue the public hearing for Planning Board Application PB#1109 until the next regularly scheduled meeting on Thursday, August 13, 2009 to allow for the Board to take a Site Walk of the property. D. Russell seconded, motion carried 4-0.

CONTINUED HEARING – Mark A. Padula; PB#0609: Site Plan Review to Operate a Contractor's Yard on Town Tax Map/Lot #412-17, of 31 acres, located at 193 NH Route 106 in the Business Zone.

L. Brunelle informed the Board that Mr. Padula requested the public hearing be continued until the August meeting.

Motion: D. Russell moved to continue the public hearing for Planning Board Application PB#0609 until the next regularly scheduled meeting on Thursday, August 13, 2009. D. Hudson seconded, motion carried 4-0.

CONTINUED HEARING - John & Claire Wilkens; PB#0509: Site Plan Review to Operate Kennel/Training Facility on Town Tax Map/Lot #414-79, of 30 acres, located at 741 Province Road in the Rural Zone.

Selectmen's Rep D. Guarino recused himself from the hearing due to conflict of interest.

Applicant Claire Wilkens and her attorney Melissa Gulbrandsen were in attendance. Atty. Gulbrandsen informed the Board that a revised driveway permit was issued by the State of NH and an updated Site Plan was submitted for the Board's review. The updated plan includes the revised driveway layout, delineated parking spaces for eight in the paved parking area, plus four spaces for overflow parking in the gravel area, and the fence and/or row of hedges along boundary.

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D. Hudson inquired whether the applicant intends to install a new fence, plant hedges or both?

Mrs. Wilkens responded that if the issue is screening, then she would rather install a fence because there is no guarantee that hedges will grow to 6' in a specific amount of time.

D. Russell suggested that there should be no obstructions between the kennel building and the barn, and that a notation should be made on the plan stating so.

N. Girard expressed concerns regarding a fence potentially obstructing fire truck access to the abutter's barn. Atty. Gulbrandsen stated that from their perspective, a fence is more appropriate than hedges and emergency apparatus may access the barn from the abutter's driveway. Mrs. Wilkens referenced the ZBA's 1987 approval requiring 6' hedges and she therefore feels that a 6' fence would be acceptable.

Ed Bernstein, abutter, was in attendance and asked that the fence not be too high and have a pleasant appearance, and would prefer plantings to a fence. Atty. Gulbrandsen indicated that the abutter could plant hedges on their side of the fence, if they wish.

Abutter's attorney, Patrick Wood, was in attendance and asked if the Town Zoning Ordinance has setback requirements for a parking lot to a boundary line? Planning Administrator Lynne Brunelle informed him that there aren't any provisions for this type of setback. In response to Mr. Bernstein's request that the fence not be too high, she conveyed that fences cannot exceed 6' in height.

D. Hudson would like to be specific on what type of barrier will be located along the boundary line. Atty. Gulbrandsen responded that it will be a simple stockade fence, not to exceed 6', to be located along the western boundary parallel to Province Road, approximately 60' long on the western side of the kennel building.

Mr. Bernstein interjected that he had written a letter to the attorneys this week conveying that aesthetics are a major concern. At this time, a pamphlet depicting an example of the white stockade fence was passed around. Both Mr. Bernstein and Atty. Wood agreed that this was acceptable.

Discussion ensued regarding the proposed stonewall to separate the parking area. The abutters agreed on a Photoshop Concept Plan "A" which shows a stonewall between the parking areas and along the boundary line to separate the parking area. However, it was noted that a stonewall is not practical for maintenance purposes, especially snowplowing. The abutters may agree on a barrier resembling a berm, which would keep the area open for plowing.

Planning Board Chair N. Girard indicated that abutter Joanne Wilkens' son, Nick Pugh, offered to work with a contractor to rectify the problem. She therefore deferred the decision to remove the asphalt and install a berm to them, but she would hope that the abutters can work together and come to an agreement on their own so the Board does not have to make it part of the conditional approval.

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D. Hudson asked if the State driveway permit requires a paved apron? Atty. Guldbrandsen responded that as part of the driveway agreement the standard requirement is a 10' paved apron and that it will be taken care of.

Atty. Wood asked where will the sign be located? Mrs. Wilkens responded that the sign is currently 15' off the property line and she plans to repair it and keep it in that location. Mr. Bernstein stated that the sign should be located where there is minimal ambiguity as to which driveway is for the kennel. N. Girard suggested that the location of the sign be determined after the driveway reconfiguration has been completed.

D. Hudson asked if the sign will be lit? Mrs. Wilkens responded that no new lighting is being proposed. The only other item being changed is the existing fence located between the kennel and the barn, which will be removed and replaced 3' closer to the kennel building, beginning at the doorstep of the northern door and around the east side of the building.

Motion: D. Hudson moved to close the public hearing on Planning Board application PB#0509. D. Russell seconded, motion carried 4-0-1, D. Guarino abstained.

Motion: D. Hudson 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 all boundary lines, topos and wetlands delineation because a survey was performed for the previously approved Site Plan and no new development is being proposed. M. Martindale seconded the motion, vote passed 4-0-1, D. Guarino abstained.

Motion: D. Hudson moved that the Planning Board accept application PB#0509 as complete and grant conditional approval as it appears to meet all of 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, and shall include:
 - (a) The stipulations set forth in the State of NH DOT driveway permit issued on 6/24/09.
 - (b) The driveway design agreement between abutters for Concept Plan "A".
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, and shall include:
 - (a) Screening of the kennel building via a 6' stockade fence to be installed along the boundary line for approximately 60' parallel with the westerly side of the building.
 - (b) The existing fence located on the northwest side of the kennel building shall be relocated approximately 3' in accordance with the 1987 ZBA requirement.
 - (c) No obstructions shall be erected in the setback area between the kennel and barn.

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4. Any exterior lighting shall be shielded from abutters and traffic and shall be depicted on the final plan.
5. Appropriate signage shall be in conformance with Town Ordinances and Regulations; its location shall be depicted on the final plan.
6. Any proposed garbage collection and/or storage areas shall be screened and located on a solid cleanable surface; its location shall be depicted on the final plan.
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 Conditions of Approval.
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(s), within the submitted documents and in accordance with any conditions set forth by the Zoning Board of Adjustment in their decision of 5/21/09 granting the Special Exception. Any other use(s) require further review and approval by the Planning and/or Zoning Boards.
11. The barrier to be located in the parking area between the abutting properties shall be constructed along the boundary line to the satisfaction of the applicant and the abutter.
12. 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.
13. The Planning Board shall have the power to modify or amend its approval of a Site Plan upon its own motion to do so.
14. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSAs.
15. A complete disclosure of the Board's deliberation and action in this matter is contained within the minutes of the meeting. The above is granted in reliance of the representations of the applicant during the public portion of the abutters hearing and within the printed submitted documents.

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16. This approval shall supersede the requirements set forth by the Zoning Board's approval of April 21, 1987.

M. Martindale seconded the motion, vote passed 4-0-1, D. Guarino abstained.

CONTINUED HEARING – J. Daniel & Linda Lemieux - PB #0909: Site Plan Review for Auto & Truck Repair Shop at 283 Province Road (NH Rt. 107N) of 17 acres located in the Light Business District; Map/Lot #124-08.

Chair N. Girard reference the Site Walk which occurred this evening at 6 p.m. where the Board members viewed the proposed overflow parking area, existing 8' x 12' open-sided shed, existing access to the 40' x 75' garage and parking area in front of the garage, culverts, drainage and catch basin.

“Jay” Lemieux was in attendance and wanted to state for the record that at the last meeting he may have come across as having the right to do whatever he wanted on his property, and that isn't the case. He wanted to convey to the Board that he wants to do what's right because he loves this town and understands that there are rules and regulations he must abide by.

N. Girard read a letter into the record from Donna White, abutter, opposing the proposal. N. Girard conveyed that in response to this letter, the Board asked a lot of questions at the Site Walk addressing many of Ms. White's concerns.

M. Martindale asked what are the plastic drums being stored behind the garage for? Mr. Lemieux responded that since he does not have running water in the garage, he fills the plastic barrels with water for use when he's working in the garage.

M. Martindale also noted that the culvert coming out of the perimeter drain is almost buried in gravel. He suggested that the pipe be extended approximately 4" so it won't get completely blocked by gravel.

D. Guarino stated that he wasn't at the Site Walk but asked for clarification if the existing garage has floor drains? Mr. Lemieux stated that the garage has a perimeter drain but no floor drains.

D. Hudson asked about lighting and signage. Mr. Lemieux responded that there is an existing traffic light in front of the Transfer Station so there is no need to put a light out front at the entrance. He does plan on placing a light above the door on the garage itself. He continued that he is proposing to make a sign that will not exceed the sign ordinance and place it at the end of the driveway. When asked if the sign will be on a post in the ground, the applicant responded that it will be a two-sided sign posted on a tree.

D. Guarino asked about the hours of operation? Mr. Lemieux intends to be open Monday through Friday 7 a.m. to 5 p.m. and maybe on Saturday 7 a.m. to 12 p.m.

Conservation Commission Chair Nanci Mitchell asked the applicant if he could possibly maintain the forested buffer between his driveway and Province Road?

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Mr. Lemieux asked if that meant no cutting? N. Girard informed him that he could selectively cut, but asked that he not clear-cut it, and leave it as a natural, wooded buffer. The applicant responded that he does not have a problem with that.

Mr. Lemieux explained that part of an older building that used to house his sawmill will remain on the property in the vicinity of the overflow parking area. This is where he plans to park his equipment and any additional vehicles and will be approximately 100' x 50'. Customer parking will be located in front of the garage but the Board asked him to keep an adequate area clear sufficient for a fire truck to access and turn around.

There being no additional questions from the public and no further input from the Board, Chair N. Girard suggested that the public hearing be closed.

Motion: D. Hudson moved to close the public hearing for Planning Board application PB#0909, seconded by D. Russell. Motion carried 4-0.

The Board members reviewed their findings that all the concerns cited by the abutter on Munsey Hill Road are being addressed. If fuels and/or hazardous materials are stored on site, they will be appropriately contained inside the garage. There will be no outside storage. There is no proposed septic or well. The applicant is the only employee and he will utilize the facilities in his house, also located on the property. If there are additional employees in the future, the applicant will be required to provide on site facilities. There is adequate parking for additional employees as well as for the proposed use. The 6" culvert at the entrance to the garage access needs to be replaced with a larger culvert.

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 all boundary lines, topos and wetlands delineation because the garage is existing and no new development is being proposed at this time. D. Hudson seconded, motion carried 4-0.

Motion: D. Russell moved that the Planning Board accept application PB#0909 as complete and grant conditional approval as it appears to meet all of 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, as follows:
 - (a) the final plan shall depict the upper parking area to be for "Owner Equipment & Overflow Parking" its dimensions to be approximately 55' x 110', to be gravel surface, with the 8' x 12' open-sided shed located within that area.

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3. Any signage, landscaping and/or screening shall be shown on the final plan in accordance with the Site Plan Regulations and as follows:
 - (a) A natural wooded buffer shall be retained/maintained between the existing driveway, the State-owned property and Province Road (NH Rt. 107N).
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. Any 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 appropriately screened; the location of which shall appear on the final plan.
6. Applicant is responsible for the payment of any fees required by the Belknap County Registry of Deeds for recording the approved Notice of Decision and/or Conditions of Approval.
7. 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.

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

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 exterior lighting shall be shielded and pointed downward to avoid abutters and traffic.
10. The old sawmill site shall be graded and leveled for owner-owned equipment and overflow parking.
11. A two-sided sign shall be mounted on a tree located at the end of the driveway on Province Road (NH Rt. 107N).
12. The existing 8" culvert located under the driveway between the garage and the house shall be replaced with a larger culvert.
13. The existing culvert for the perimeter drain output shall be extended to prevent gravel from covering and/or clogging it.

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

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14. The use of the property is limited to those indicated in the applicant's testimony at the public hearing(s) and in accordance with the Special Exception granted by the Zoning Board of Adjustment on 6/19/09 for an Auto & Truck Repair Facility. Any other use(s) require further review and approval by the Gilmanton Planning and Zoning Boards.
15. 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.
16. The Planning Board shall have the power to modify or amend its approval of a Site Plan upon its own motion to do so.
17. Approval is subject to expiration, revocation and changes in the Ordinances under Town Regulations and the State RSAs.

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

INFORMAL DISCUSSION – Brett Currier: Zoning District for Tax Map/Lot #413-90 located on Mary Butler Lane.

Brett and Brenda Currier were in attendance to inquire about property they own of 9.27 acres with 600' of frontage on Mary Butler Lane, a Class VI Road, and 126' of frontage on Allens Mill Road, a Class V Road. The Town assessment card identifies this property as located in the Rural Zone. Mr. Currier disagrees because a previous survey depicts the lot having frontage on Mary Butler Lane only and a more recent survey of the Haskell Subdivision approved in 1986 shows that boundary line was moved over 126' in order to provide sufficient frontage on Allens Mill Road, a Class V Road. Lynne researched the Zoning Ordinance and determined that in 1986, the minimum required frontage for the Village Zone was 125' while the minimum frontage requirement in the Rural Zone was 150'. Therefore, it makes sense that the boundary was relocated 126' specifically for purposes of meeting the minimum requirement for the Village Zone. Furthermore, as per Zoning Ordinance Article II.C. Zoning District Boundaries: *In any instance where there is doubt as to the location of a zoning district boundary, the Planning Board shall determine the location of such boundary, consistent with the intent of this ordinance and the zoning map.*

Mr. Currier came before the Board this evening so a determination can be made as to which zoning district the property is located. It was noted that as per the Zoning Map, it appears that this property lies just within the boundary of the Village Zone. Therefore, it was the consensus of the Board that the subject property is located in the Village Zone.

Motion: M. Martindale moved that the Planning Board determined Map/Lot #413-90, of 9.27 acres and 126' of road frontage on Allens Mill Road, is located within the boundaries of the Village Zone and is therefore a conforming lot. D. Hudson seconded, motion carried 4-0.

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Mr. Currier thanked the Board for its time and consideration. For the Board's information, he also informed them that he sold the building currently on the property, an 1839 Cape, to Steve Bedard, and the vacant lot will be sold for purposes of constructing a single-family dwelling.

OTHER BUSINESS:

Crystal Lake Farms Subdivision: Conservation Commission Chair Nanci Mitchell was in attendance and referenced the most recent plan, revised 6/4/09, in response to the Board's letter of 5/22/09 requesting that the applicant change the "Proposed Fire Pond" to "Existing Irrigation Pond" and to perform wetland calculations to be removed from the buildable land.

Nanci indicated that the name of the pond has been changed and the calculations have been included; however, the pond configuration has remained the same on the plan. She needs to perform an updated baseline documentation and before doing so, Nanci would like to know if the Board considers this the final plan? Nanci expressed concern regarding accepting the easement unless there is an "as-built" plan.

L. Brunelle informed the Board that the applicant's concern is if he's required to get the Soil Scientist back on site then have the Surveyor go back, a revised plan won't be signed until sometime this fall. The applicant would like to start road construction as soon as possible because there have been complaints made by Crystal Lake residents. Mr. Rague sent an email to Nanci requesting that the plan be signed and recorded by the end of July, otherwise, he'd have no choice but to withdraw the application for an Open Space Subdivision and submit another plan for a conventional. N. Mitchell indicated that there is no way she can achieve the work required for the baseline documentation by that time.

After discussion, the Board decided to allow Mr. Rague to commence road construction but to inform him that the plan cannot be recorded by the end of the month.

Motion: D. Hudson moved that the Planning Board grant approval for Kurt Rague, Crystal Lake Farms LLC, to commence road construction from the intersection of Crystal Lake Road and Tree Ridge Road to the hammerhead. The final subdivision will not be signed until such time that all documentation is complete as per the stipulations set forth in the Planning Board's letter of 5/22/09, specifically Section (c). D. Russell seconded, motion carried 4-0.

Lynne will draft a letter to Mr. Rague stating that the Planning Board decided to accept the plan as complete in order to allow the commencement of road construction, as long as it doesn't encroach on the easement area. No construction shall occur until a site inspection is performed by the Town's road engineer Hoyle, Tanner & Assoc. Inc. (HTA). The final plan shall not be recorded until the baseline documentation has been completed and the Conservation Easement has been finalized, accepted and ready for recording. She will forward a draft letter to N. Girard and N. Mitchell for review and comment prior to forwarding the final form to the applicant.

Joint Hearing with ZBA: Lynne reminded the Board that there is a Joint Hearing with the Zoning Board scheduled for next Thursday, July 16, 2009 at 7 p.m. Brief discussion occurred regarding the applications being heard that evening.

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ADJOURNMENT

On a motion made by D. Russell and seconded by M. Martindale, vote passed unanimously.
Meeting adjourned at 10:15 p.m.

Respectfully submitted,

Lynne R. Brunelle