

**Gilmanton Planning Board
Academy Building
503 Province Road
Gilmanton, NH 03237**

**Minutes of the Meeting
Thursday, January 07, 2010**

**Public Hearing
2010 Proposed Zoning Amendments**

Members Present: Nancy Girard, Chair; John Funk, Vice-Chair, Don Guarino, Selectmen's Rep; Marty Martindale, Member; Dave Russell, Member; Dan Hudson, Member; Mark Fougere, Professional Planner; Desiree Tumas, Clerk.

Public Attendance: (As signed in) Douglas M. Isleib, Claire Wilkens, Sue Hale-DeSeve, Laurie & Robert Henderson

Called to Order at 7:05 PM

Chair Girard opened the Public Hearing with Board Member introductions and explanation of the Public Hearing to receive comments pertaining to the proposed Zoning Ordinance Amendments.

Pursuant to RSA 674:16 I - the following amendments are for the purpose of promoting the health, safety, or the general welfare of the community, the local legislative body of any city, town, or county in which there are located unincorporated towns or unorganized places is authorized to adopt or amend a zoning ordinance under the ordinance enactment procedures of RSA 675:2-5.

To see if the Town will vote to amend the Zoning Ordinance, Article VI Manufactured Housing, Section D, Storage and Use of Recreational Vehicles.

1) A single recreational vehicle owned by permanent residents of the Town of Gilmanton may be stored or parked on the owner's primary residence property during all periods of non-use.

2) Any property owner or lessee may accommodate one recreational vehicle upon their property for travel, camping, recreational or business purposes, whether the recreational vehicle be owned by the property owner, lessee, or a non-paying guest of the owner/lessee, for a period not to exceed 120 consecutive days annually, provided that during all periods of use the recreational vehicle remains mobile, legally registered and inspected, and adequate water and sewage systems, whether self-contained or temporarily connected to facilities approved by the New Hampshire Water Supply and Pollution Control Commission are provided. Any such recreational vehicle must meet the setback requirements for buildings in Article IV, Table 2. Except as provided in Article VI.D.1., no Recreational vehicle shall be located on any property unless a permit has been issued by the Town. Except as permitted herein, recreational vehicles may be used only in approved campgrounds.

Mr. Fougere explained the proposed amendments to Article VI of the zoning ordinance are to help regulate the use of recreation vehicles, campers and travel trailers. In the past there have been issues of campers using vacant lots without safeguards for septic and in some cases complete abandonment of the RV, campers and travel trailers.

Chair Girard explained the Board had met previously with Professional Planner, Mark Fougere and through those discussions, the proposed language was suggested. Chair Girard called for comments from the public.

Attending members of the public stated concern with the rights of residents being restricted from using an otherwise useless lot because of the small non-conforming size.

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Others reiterated concerns regarding improper disposal of the septic/gray water produced as a result of camping.

Board Members and members of the public discussed safeguards through the permitting process that would require residents intending to hook an RV, camper or travel trailer to an existing state approved septic system to submit written confirmation from NH DES confirming the septic is adequate to handle the additional load of the RV, camper or travel trailer use.

It was suggested that the proposed ordinance is selective regulation.

It was explained that the zoning ordinances are the laws for the Town. There has been a growing problem of RV's, campers and travel trailers being used on lots close to the lakes, rivers and streams without adequate oversight of the septic/gray water disposal.

The proposed ordinance is to continue allowing the use of RV's, campers and travel trailers with environmental safeguards and regulation of the septic/gray water disposal.

It was suggested that the language be amended to state "primary" instead of "permanent" residence.

Board Members questioned if it would be possible to receive permitting from NH DES to hook an RV, camper or travel trailer into an existing state approved septic system.

Mr. DeSeve, a Member of the Conservation Commission and also a DES employee explained that it would be possible to hook into an existing state approved septic system, provided that the septic design could handle the additional load. Residents intending to temporarily hookup an RV, camper or travel trailer can obtain written confirmation of the septic load by contacting DES.

Members of the public stated concern regarding campers that are not permitted to hook into an existing septic system because the existing system would not support the additional load and do not have holding tanks.

Board Members agree language to address the septic/gray water disposal should be added.

Members of the public questioned why the Town is now considering language to regulate the RV, campers and travel trailers.

Members of the public also questioned if the new language would affect residents who currently enjoy camping on their property.

It was explained that the Board is refining the existing language to provide septic/gray water regulation as well as clarifying the period of time camping is permitted. The proposed amendments do not take away the existing rights of the residents.

Also questioned was if other towns enforce similar ordinances; it is unknown at this time what if any other towns have for ordinances related to camping.

Chair Girard called for further comment from the public, hearing none; redirects to final Board discussion.

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Board Members agree to amend the language of Article VI in the following manner:

#1 A permanent resident of the Town of Gilmanton may store or park one (1) recreational vehicle owned by the resident on his/her property.

**#2 (second line first word) strike "their" replace "his/her"
(third line third word) strike "be" replace "is"
(forth line after "a" insert "permitted period(s) of 120 days" strike "consecutive"
(line six after inspected) insert "disposes septage either in self contained fully functional holding tank(s) in the vehicle or a septic system which meets the requirements of 485 I-38-A (DES Rules) for a temporary connection to a fully functioning septic system or removal from the vehicle by a licensed septic removal company"
(additional language) Unlawful disposal of septage will result in immediate revocation of the permit, removal of the recreational vehicle, fines and financial responsibility for any and all clean-up necessary.**

Mr. Fougere will provide amended language for the Board to review. It was explained that an additional hearing would have to be scheduled and noticed due to the substantive change in the language originally noticed for this hearing.

Having nothing further, discussions were concluded.

To see if the Town will vote to amend the Zoning Ordinance, Article IX, Board of Adjustment, C Variances.

In order to comply with new statute language that will take effect on January 1, 2010, the following ZBA amendment is recommended. Removing the specific statutory language for variances from the zoning ordinance and only referencing RSA 674:33, will remove the need to amend the zoning ordinance in the future if the statute should change. The new variance criteria can be attached to the ZBA application so that applicants will have access to the appropriate variance criteria.

- 1) ~~The Board of Adjustment may authorize a variance from the terms of this Ordinance only where the Board finds that all of the conditions as defined in RSA 674:33, I-III are met, namely:~~
 - a. ~~That if the variance was granted, no diminution in the value of the surrounding properties would be suffered;~~
 - b. ~~That the granting of the variance would be of benefit to the public interest;~~
 - e. ~~That denial of the variance would result in unnecessary hardship to the owner seeking it;~~
 - d. ~~By the granting of the variance, substantial justice will be done; and~~
 - e. ~~That the proposed variance will not be contrary to the spirit of the Ordinance.~~
- a.f. A variance shall expire if the use ~~of~~ **or** construction permitted by the variance is not implemented within one (1) year of the date of the action of the Zoning Board of Adjustment. A variance shall be considered abandoned if the use permitted shall cease for more than one (1) year.
2. ~~Unnecessary hardship may be established by proof that (1) a zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property. Considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the~~

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~~general purposes of the zoning ordinance and the specific restriction on the property; and (3) the variance would not injure the public or private rights of others.~~

It was explained that the purpose of removing language and amending Article IX-C was for the purposes of consistency and clarity. The quoted language is from an existing RSA that is amended by the State Legislature from time to time and when this occurs the Town is then required to amend the language of any ordinance that mentions the RSA, which requires a Town vote. Applicants seeking relief from the ZBA will be provided the current RSA language with the application.

Chair Girard called for public comment, hearing none; redirects to final Board discussion.

Board Members have no further amendment to the proposed amendment of Article IX C and discussions were concluded.

To see if the Town will vote to amend the Zoning Ordinance, Article IX, Board of Adjustment, B Special Exception, by amending Section 2, Conditions of Approval, by amending paragraph e, to read as: Any structure proposed must meet all of the dimensional requirements of Table 2, except as allowed by Article VII, Paragraph B Non-conforming uses and non-conforming structures.

It was explained that the current language conflicts with existing table and the proposed language would clear up any ambiguity.

Chair Girard called for public comment, hearing none; redirects to final Board discussion.

Board Members have no further amendment to the proposed amendments of Article IX –B-2 (e) and discussions were concluded.

- 1) **To see if the Town will vote to amend the Zoning Ordinances as follows:**
 - a. **To see if the Town will vote to amend Zoning Ordinance, Article IV Zoning District Regulations, Table 1, by deleting the land use term “Agriculture Traditional” and replacing it with “Agriculture”.**
 - b. **To see if the Town will vote to amend the Zoning Ordinance, Article XVI, Definitions, by deleting the term “Agriculture – Traditional”.**
 - c. **To see if the Town will vote to amend the Zoning Ordinance, Article XVI, Definitions, by amending the current definition of “Agriculture” as follows: As defined in RSA 21:34-a, including Agritourism uses.**
 - d. **To see if the Town will vote to amend the Zoning Ordinance, Article XVI, Definitions, by adding the following definition: Agritourism – means attracting visitors to a working farm for the purpose of eating a meal making overnight stays, enjoyment of the farm environment, education on farm operation, or active involvement in the activity of the farm which is ancillary to the farm operation. Said operation shall be approved by the Board of Selectmen and in compliance with all applicable state and local laws, ordinances and regulation. Such uses may include, but shall not be limited to, corn mazes, farm animal petting, horse and pony rides, horse riding lessons, pick your own produce, and wagon/sleigh rides**

Chair Girard opened the public discussion by read into the record, a letter submitted by Paula L. Gilman of 50 Hawkins Lane in Lower Gilmanton. Please see the attached copy.

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Board Members questioned what the definition of a “working farm” is? The following RSA was read.

RSA 21:34-a Farm, Agriculture, Farming

I: The word “farm” means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operation named in paragraph II of this section. For complete text of the stated RSA, Please refer to, “New Hampshire Planning and Land Use Regulations – 2008-2009 Edition”; page 37.

Board Members question the process of seeking approval or determination by the Board of Selectmen regarding the necessity of a site plan for an Agritourism use change. Following additional discussion, Board Members feel that it would be better to adjust the language compelling the intended Agritourism activity comply with existing regulations and ordinances by inserting the words, “Shall comply with all state and local regulations and ordinances.

It was questioned by Mrs. Henderson, how it is that there are other farms in town that have not been subject to the same commercial approval for “Agritourism” type of activity. It was further explained that unless specific uses are listed then they would have to go before the ZBA.

Board Members explained that the amendment to the zoning ordinance as discussed would eliminate the need for ZBA approval provided that the use complied with state and local regulations and ordinances.

It was questioned by the public, why there is a need for a procedure if Agricultural uses are allowed in all zones. Also questioned was “Commercial Agricultural Use” and if that would be something like the Cabot Creamery in Vermont. Board Members briefly discussed the comment without conclusion.

It was explained that the issue is not with traditional agricultural uses. The issue is what type of activity on the farm would classify as Agritourism. The proposed amendments would help eliminate the ambiguity of the existing language, however the uses noted are not and would not be all-inclusive.

Selectmen’s Rep, Guarino redirected the discussions to the proposed zoning amendments.

Debate between the Board and Mr. & Mrs. Henderson continued as it relates to the proposed ordinance change.

Chair Girard redirects discussion to the ordinance amendments and called for further discussion related to the proposed amendments related to the Agritourism Ordinance.

Following brief review of the proposed amendments, Board Members agree to amend the ordinance language related to Agritourism in the following manner:

Article XVI

d)

(third line) insert a comma after "meals"

(line six) strike "shall be approved by the BOS"

(line six) after "Said operation shall" insert "comply"

(line seven) strike "compliance"

strike lines eight, nine and ten

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Mr. Fougere will provide amended language for the Board to review. It was explained that an additional hearing would have to be scheduled and noticed due to the substantive change in the language originally noticed for this hearing.

Board Members briefly discussed scheduling an additional hearing for the amendments discussed at tonight's meeting. Board Members agree to conduct the next scheduled public hearing on Wednesday, January 27, 2010 beginning at 7:00 PM in the Academy Building Conference Room.

Having nothing further, discussions were concluded.

Chair Girard call for a motion to amend the language of Article VI.

#1 A permanent resident of the Town of Gilmanton may store or park one (1) recreational vehicle owned by the resident on his/her property.

***#2 (second line first word) strike "their" replace "his/her"
(third line third word) strike "be" replace "is"
(forth line after "a" insert "permitted period(s) of 120 days" strike "consecutive"
(line six after inspected) insert "disposes septage either in self contained fully functional holding tank(s) in the vehicle or a septic system which meets the requirements of 485 I-38-A (DES Rules) {Citation number to be confirmed} for a temporary connection to a fully functioning septic system or removal from the vehicle by a licensed septic removal company"
(additional language) Unlawful disposal of septage will result in immediate revocation of the permit, removal of the recreational vehicle, fines and financial responsibility for any and all clean-up necessary.***

Member Martindale second the motion as stated, the motion passed unanimously.

Chair Girard called for a motion to amend the language of Article XVI.

Member Russell moved to amend Article XVI in the following manner:

Article XVI

d)

***(third line) insert a comma after "meals"
(line six) strike "shall be approved by the BOS"
(line six) after "Said operation shall" insert "comply"
(line seven) strike "compliance"
strike lines eight, nine and ten***

Member Martindale second the motion as stated, the motion passed unanimously.

Chair Girard called for further business to come before the Board, hearing none; entertains a motion to adjourn the meeting at 9:45 pm.

Member Russell moved to adjourn the meeting at 9:45 pm, Member Martindale seconds the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas, Clerk
Planning Board