



Planning Board
Academy Building
503 Province Road
Gilmanston, New Hampshire 03237
planning@gilmanstonnh.org
603.267.6700-Phone 603.267.6701-Fax

Desiree Tumas, Administrator
Mark Fougere, Certif. Planner
Nancy Girard, Chair
John Funk, Vice-chair
Rachel Hatch, Select-Rep
Dan Hudson, Member
Marty Martindale, Member
Dave Russell, Member
John Weston, Member

Minutes of the Meeting

January 24, 2012

Member Attendance: Nancy Girard, Chair; John Funk, Vice-chair; Dan Hudson, Member; Marty Martindale, Member; David Russell, Member; John Weston, Member; Mark Fougere, Town Planner; Desiree Tumas, Administrator. Absent the Meeting was Rachel Hatch, Select Rep..

Public Attendance: (As signed in) Elizabeth Hackett, Wayne Hackett

Open Meeting

Call to Order @ 7:00 pm
Introduction of Board Members
Explanation of Meeting Procedures

Public Hearing (Continued from 01/19/12)

- 1. To amend Article IV – Table 1, Zoning District Regulations, Wireless Telecommunications Facilities, by replacing the existing requirement to obtain a Special Exception for this use in the Village, Rural, Conservation and Residential Lake Districts with the requirement to obtain Conditional Use Permit. In addition, amend Article III paragraph K., Personal Wireless Communications Facilities by replacing all references to Special Exceptions and its administration by the Board of Adjustment and replace them with a Conditional Use Permit process administered by the Planning Board.***

N. Girard opened the public hearing, reading the proposed amendment for the record, and recognized E. Hackett who questioned the proposed Conditional Use Permit related to the Tower Ordinance.

It was explained that currently there is conflicting oversight between the PB and ZBA within the existing language and approval of a cell tower and the conditions of use are based in the site plan regulations under the PB purview.

It was questioned what relief would be sought if the PB denied a Conditional Use Permit?

The hearing could be continued giving the applicant opportunity to amend a plan or provide additional information. If the applicant were disinclined to comply with recommendation of the PB, the applicant would appeal to superior court.

E. Hackett questioned the missed email that included the proposed amendments and communication break down.

It was explained that the email with the attached proposed language was sent out mid December 2011, and the ZBA Clerk claimed the email was not received. Per the public notice that was published in the Laconia Sun on December 30, 2011, the proposed language was available to the public in the Selectmen and Town Clerks Office's as of the same date.

The catalyst for the proposed change was questioned.

**Planning Board
Minutes of the Meeting
January 24, 2012
Page 2 of 6**

It was explained it was an effort to streamline the process of approval, to make it simpler for the citizens. It was reiterated that the oversight is based more on the site plan regulations and is more of a planning function than a zoning function.

It was questioned if approval of a conditional use permit stayed with the applicant or with the land.

The approval would stay with the land and not the individual applicant. Approvals do not expire unless the approved use is abandoned for a period of 1-year.

N. Girard called for further discussion, hearing none; the Board moved on to the second proposed amendment.

Revisiting the proposed amendment N. Girard called for a motion.

J. Funk moved to approve the proposed language for placement on the March 13, 2012, Ballot, D. Russell seconded the motion as stated; the motion passed unanimously.

- 2. To amend Article IV A & Table 1, Zoning District Regulations & Article X Additional Special Exception Criteria (Cottage Industry) by deleting all references to the requirement of Special Exception for specific uses administered by the Board of Adjustment and replace them with the requirement of a Conditional Use Permit requirement administered by the Planning Board. In addition, amend the Zoning Ordinance to add the following new Article: Conditional Use Permit Criteria: The Planning Board may, in appropriate cases, and subject to safeguards as determined by the Planning Board, grant a Conditional Use Permit per RSA 674:21-II for a land use in accordance with Article IV, Table 1.***

N. Girard read the proposed language for the record and recognized E. Hackett.

E. Hackett stated concern regarding the PB taking away the Special Exception approval, which would make the ZBA obsolete.

It was noted that the ZBA would still be responsible for administrative appeals, variances and special exceptions for non-conforming lots of record. M. Fougere added that the ZBA is required when a zoning ordinance is enacted.

Clarification was made that there are special exceptions pertaining to land use that are under the PB purview and in the past there have been cases where the ZBA placed site plan land use conditions on an approval.

The Board briefly discussed the benefit of joint meetings, noting they should occur more often to avoid conflict of oversight.

Board Members reviewed page 9-2 of the Zoning Ordinance: Article IX Board of Adjustment.

Upon review, it was agreed that the criteria for approval are land use and therefore fall under the purview of the PB.

Board Members and E. Hackett discussed specific uses under special exception and determined that some of the uses listed in Article IV, Table 1, should be under the PB purview.

Specific uses discussed were: Childcare Facility, Cottage Industry, Dwelling, Multi-family (New construction and interior alterations), Dwelling Two-family, Offices (2,000 sq. ft. or less), Retail Business, Service Business.

**Planning Board
Minutes of the Meeting
January 24, 2012
Page 3 of 6**

N. Girard called for further discussion, hearing none; the Board will revisit to determine if proposed amendments to the language are non-substantive, and do not change to the original intent of the proposed amendment or if substantive changes were made a public hearing would have to be scheduled no later than February 7, 2012.

With consideration of the notice requirements it was determined that if another public hearing was needed the Board could schedule the hearing on Monday February 6, 2012.

According to the 2012 Municipal Calendar, proposed amendments once approved by the PB for placement on the Ballot must be posted no later than Tuesday February 7, 2012.

Revisiting the proposed amendment N. Girard called for a motion.

J. Weston moved to conduct an additional public hearing due to the substantive nature of the proposed amendments to the language with the required public notification, M. Martindale seconded the motion as stated; the motion passed unanimously.

- 3. To amend Article IX, Board of Adjustment, by adding the following new Section: Septic System Plans. The Board of Adjustment shall not require submission of a septic system plan/design (whether or not approved by the State of New Hampshire) as a condition to the filing an application for a variance or special exception.***

N. Girard read the proposed language for the record and recognized E. Hackett.

E. Hackett explained that there was an issue with an approval which was conditioned to have an approved septic and the applicant developed the property without a septic approval and to avoid the same situation from occurring again the ZBA began to require an approved septic design to be submitted with all applications.

E. Hackett noted that one ZBA Member is opposed to the proposed amendment.

It was explained that several residents felt that the requirement is an undue financial burden. Especially, when an approved septic is not relevant to the application.

It was further explained that the proposed ordinance does not preclude the ZBA from requiring as a condition of approval that an approved septic system is obtained before development commences. Additionally noted was that the Building Inspector when applicable must have an approved septic design in order for a building permit to be issued.

N. Girard called for further discussion, hearing none; the Board moved on to the fourth proposed amendment.

Revisiting the proposed amendment N. Girard called for a motion.

J. Funk moved to approve the proposed language for placement on the March 13, 2012, Ballot, M. Martindale seconded the motion as stated; the motion passed unanimously.

- 4. To amend Article III, General Provisions Applicable to All Districts, by adding a new Section, to read as follows: NUMBER OF RESIDENTIAL UNITS WHICH MAY BE CONSTRUCTED ON A LOT - Only one single family dwelling unit, or one 2-family dwelling unit, may be constructed on a single lot, except that, a greater number of dwelling units may be allowed as determined by a Conditional Use Permit under the provisions of this ordinance relating to multi-family and/or condominium Ordinance.***

N. Girard read the proposed language for the record.

It was explained that the proposed ordinance supports the existing definition of "Lot".

E. Hackett stated that the ZBA was in favor of the proposed ordinance.

N. Girard called for further discussion, hearing none; the Board moved on to the fifth proposed amendment.

Revisiting the proposed amendment N. Girard called for a motion.

J. Funk moved to approve the proposed language for placement on the March 13, 2012, Ballot, D. Hudson seconded the motion as stated; the motion passed unanimously.

- 5. To amend Article III, General Provisions Applicable to all Districts, by adding a new Section, to read as follows: to add a Steep Slope Conservation overlay district which shall apply to all areas with a slope greater than 15% where the proposed disturbance exceeds 20,000 square feet. Development of such steep slopes shall require a conditional use permit from the planning board and will be subject to performance standards including that cut and fill of slopes shall not exceed a 2:1 ratio; existing natural and topographic features shall be preserved to the greatest extent possible; driveways may not exceed 10% slope.***

N. Girard read for the record the proposed language as well as a letter of support from the GCC.

Following brief discussions regarding omission of the last sentence, the consensus of Members is to remove the last sentence.

N. Girard called for further discussion, hearing none; entertained a motion to delete the last sentence as follows: "for residential subdivision and 8% slope for nonresidential uses; and prohibiting the construction of structures on slopes greater than 25% prior to site disturbance."

D. Russell moved to strike the last sentence of the proposed amendment, J. Weston seconded the motion as stated; the motion passed unanimously.

N. Girard called for further discussion, hearing none; the Board moved on to the sixth proposed amendment.

Revisiting the proposed amendment N. Girard called for a motion.

D. Hudson moved to approve the proposed language for the placement on the March 13, 2012, Ballot, J. Funk seconded the motion as stated; the motion passed unanimously.

- 6. To amend Article IV Table 1, Zoning District Regulations, by replacing the term Church/Community Building with the term House of Worship/Community Building.***

N. Girard read for the record the proposed language and read a letter from ZBA Member Paul Levesque.

D. Tumas explained the proposed amendment is based on information from the fall 2011, law lecture series. Specifically, the Federal Religious Land Use Protections provided by, the Department of Justice-Civil Rights Division.

The proposed amendment is to provide a broader definition as “church” which does not include other religious organizations that worship in a mosque or synagogue.

N. Girard called for further discussion, hearing none; the Board moved on to the seventh proposed amendment.

Revisiting the proposed amendment N. Girard called for a motion.

D. Russell moved to approve the proposed language for the placement on the March 13, 2012, Ballot, J. Weston seconded the motion as stated; the motion passed unanimously.

7. ***To amend Article XVI Definitions, by adding the follow new terms – Kennel: A commercial establishment in which dogs and other domesticated animals are housed, bred, boarded (overnight), trained and/or sold, all for a fee or compensation and Kennel Day Care: A commercial establishment in which dogs and other domesticated animals are housed (not overnight) and trained and/or sold, all for a fee or compensation. In addition, amend Article IV Zoning District Regulations, Table 1, by adding the following new uses, Kennel & Kennel Day Care, broken down by District as follows: Village – Not Permitted, Rural –Conditional Use Permit, Conservation – Conditional Use Permit, Limited Business-Conditional Use Permit, Business – Conditional Use Permit and Residential Lake – Not Permitted.***

N. Girard read the proposed language for the record.

Board Members and E. Hackett discussed the difference between a dog day care verses a kennel, concluding the difference is a “kennel” has overnight boarding and “dog day care” is specifically for daily care where the client would drops off a pet(s) during the day picking up the same day, without overnight boarding.

The Board will include both definitions under the single term, “Kennel”.

N. Girard called for further discussion, hearing none; the Board concluded discussions and will revisit each proposed amendments for a motion and vote to place the proposed amendments on the March 2012, Ballot.

Revisiting the proposed amendment N. Girard called for a motion.

J. Funk moved to approve the proposed language for the placement on the March 13, 2012, Ballot, D. Hudson seconded the motion as stated; the motion passed unanimously.

Discussions

1. **Continued from 01/19/2012:** **Ralph Lavin (414-5) The Applicant request a determination of a Insignificant Change of Use to add storage of firewood product on the pavement next to the existing salon while maintaining the required access as approved.**

Mr. Lavin was unable to attend the meeting due to his obligation to attend the Board of Selectmen’s meeting scheduled at the same time as the PB meeting.

N. Girard read the letter of apology from Mr. Lavin pertaining to the discussions that took place at the meeting on January 19, 2012.

Board Members accepted the apology.

N. Girard called for further discussion, hearing none; entertained a motion to continue discussion until the February 9, 2012.

D. Hudson moved to continue the discussions until the February 9, 2012, regular meeting, J. Weston seconded the motion as stated; the motion passed unanimously.

2. Marshall Bishop (420-103) The Applicant would like to discuss his amended site plan approved June 9, 2011.

Following up on the anticipated submission of an amended site plan, D. Tumas explained she had discussions with M. Bishop regarding the submission of his amended site plan as approved by the PB.

M. Bishop stated during discussions that due to the excessive cost to add the footbridge & walkway from the bus parking area, he would like to wait to provide an amended plan until the next phase of the development.

Following brief discussion on the matter, Board Members request M. Bishop attend the regular meeting on February 9, 2012.

D. Tumas will contact M. Bishop and request he attend the meeting in February.

J. Funk moved to continue the discussions until the February 9, 2012, regular meeting, M. Martindale seconded the motion as stated; the motion passed unanimously.

**Correspondence
Unscheduled Business
Adjournment**

J. Funk moved to adjourn the meeting at 9:50 pm, M. Martindale seconded the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas
Administrator