

**Planning Board  
Academy Building  
503 Province Road  
Gilmanton, New Hampshire 03237**

**Minutes of the Meeting  
Thursday, February 11, 2010**

**Members Present:** Nancy Girard, Chair; John Funk, Vice-chair; Marty Martindale, Member; Don Guarino, Selectmen's Rep.; Dan Hudson, Member; David Russell, Member; Desiree Tumas, Clerk; John Weston, Alternate Member; (not seated on the Board)

**Public Attendance:** (As signed in) Paula Gilman, (Not signed in) Tom Argue

**Open Meeting**

*Introduction of Board Members  
Explanation of Meeting Procedures*

**Approval of Minutes**

January 07, 2010 – Public Hearing - Zoning Amendments

***Vice-chair Funk moved to approve the January 07, 2010 Minutes of the Meeting as amended, Member Martindale seconds the motion as stated; the motion passed unanimously.***

January 14, 2010 – Regular Meeting

***Member Martindale moved to approve the January 14, 2010 Minutes of the Meeting as amended, Vice-chair Funk seconds the motion as stated; the motion passed unanimously.***

January 27, 2010 – Public Hearing - Zoning Amendments

***Vice-chair Funk moved to approve the January 27, 2010 Minutes of the Meeting as amended, Member Martindale seconds the motion as stated; the motion passed unanimously.***

**Public Hearings**

None Scheduled

**Discussions**

**Paula Gilman** – Tax Map #424 Lot 55 - **PB #0809** - 50 Hawkins Lane - To discuss proposed parking plan.

Chair Girard recognized Paula Gilman who presented the parking plan to the Board. The proposed parking area will have 65 parking spaces with a 48' x 48' wide turn-around area to accommodate fire apparatus. Each parking space is expected to be 8'.5" wide and at least 18' deep with an aisle width of 22'.

Chair Girard called for further discussion; Member Hudson stated that he had previously had concerns with the width of the aisle as the plan was originally presented; the 11' aisle width is sufficient.

Chair Girard called for further discussion, hearing none; entertained a motion to approve the proposed parking plan as presented.

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***Vice-chair Funk moved to accept and approve the proposed parking plan as presented, Member Russell seconds the motion as stated; the motion passed unanimously.***

Chair Girard called for further discussion, hearing none; discussions were concluded.

**J. Daniel & Linda Lemieux** – Tax Map 124 Lot 08 – **PB 0909** – Review of final plan submitted for approval.

It was explained to the Board that Mr. Lemieux had submitted an amended plan for approval. However, upon review of the conditions of approval it was noted that the following conditions had not been fulfilled as outlined in the July 09, 2009 Minutes of the Meeting.

- #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.

Board Members reviewed the July 09, 2009 Minutes of the Meeting as well as the Decision Letter. Following brief discussion, Board Members conclude that the testimony by the Applicant was that there would be no outside storage of fuel and/or waste oil. Board Members agree that a note regarding the storage of fuel and/or waste oil produced should be noted on the plan. Additionally, Board Members would like Code Enforcement to make a compliance check to ensure Best Management Practices and safeguards are in place if storage of fuel and/or waste oil are stored inside the building.

- #5 – Any dumpster shall be located on a solid cleanable surface such as concrete, shall be of sufficient size to contain all material, shall be kept closed and appropriately screened; the location of which shall appear on the final plan.

Board Members reviewed the July 09, 2009 Minutes of the Meeting as well as the Decision Letter. Following brief discussion, Board Members conclude that the dumpster location is not depicted on the plan and again request Code Enforcement to make a compliance check to ensure that solid waste material is being disposed of properly and is contained in the manner outlined in the Planning Board Approval of July 09, 2009.

- #12 – The existing culvert for the perimeter drain output shall be extended to prevent gravel from covering and/or clogging it.

Board Members reviewed the July 09, 2009 Minutes of the Meeting as well as the Decision Letter. Following discussions, Board Members agreed the Code Enforcement Officer for compliance with the Planning Board Approval of July 09, 2009 should review all culvert upgrades.

Mrs. Tumas stated that she would make a courtesy call and talk to Mr. Lemieux prior to requesting Code Enforcement site visit.

Having nothing further, discussions were concluded.

Having no other members of the public present; Mrs. Tumas requested the Board take the Agenda out of order and take up discussions with Mr. Argue who is in attendance to discuss the Planning Board's Conditional Approval.

Board Members were agreeable and Chair Girard recognized Mr. Tom Argue.

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**Thomas Argue et al** – Tax Map 416 Lot 2, 3, 4 – **PB 0110** – Mountain Road- To discuss final plan approval.

Mr. Argue explained the condition of approval which requires 30,000 contiguous sf of upland depicted on the plan according to Section VI:C-2 of the Subdivision Regulations is impossible to meet without encroaching on the setbacks with consideration of the lot configuration.

Discussions with Surveyor, Dennis Riolland, concluded that the amount of setback encroachment would be minimal. An exact amount of encroachment was not discussed except to say, "It was not significant". Mr. Argue would like to submit a waiver for the requirement of Section VI:C-2 of the Subdivision Regulations.

Board Members agree that caution must be taken when consideration of a waiver is on the table. The Planning Board must be careful not to set precedence and reviews all waivers on the merits of the application and consideration of the facts gathered during testimony at the Public Hearing.

Board Members request Mr. Argue to submit an amended plan showing the minimal building site of 30,000 contiguous sf along with the written waiver seeking relief from the requirements of Section VI:C-2 of the Subdivision Regulations. It was additionally stated that the delineation of the 30,000 contiguous sf does not dictate the house location. It merely depicts that there is sufficient land available to develop the lot.

Board Members questioned if there was any encroachment to the wetlands with regard to the 30,000 contiguous sf. Mr. Argue stated that to his knowledge there were not any wetlands in the 30,000 contiguous sf.

Mr. Argue also noted that the requested setback requirements of the Shoreland Protection Act do not impact the lots and do not reach the property line of the subject property.

Upon review of the definition of "Setback", Board Members briefly discussed the need to review the definitions and include, "building site". Board Members agreed to revisit the definition issues when the regulations are reviewed and amended.

Board Members again discussed the acceptance of the waiver and revisited discussions of precedence concluding that Mr. Argue should submit the plan with the resulting setback encroachments and show the building site area. The Board will review the plan and waiver submitted at the next regular meeting in order to make a determination on the request.

Chair Girard called for further discussion; Mr. Argue thanked the Board for their time and reiterated that he would submit the necessary paperwork in a timely manner for the Board's consideration at their next regular meeting.

Having nothing further, discussions were concluded.

**Bernard Lynch** – Tax Map 412 Lot 20 – **PB 1609** – Rte 106 – 283 Province Road - To discuss removal of the two trailers.

At the January 27, 2010 Planning Board meeting, it was questioned if the Board had set a time limit to allow Mr. Lynch time to remove the two dilapidated trailers. Upon review of the Approval Letter dated October 09, 2009 and October 8, 2009 Minutes of the Meeting, Board Members concluded that no time limit had been set.

Board Members agree that the best time to remove the trailers would be while the ground is still frozen. If Mr. Lynch waits until spring the conditions would be such that it would be more difficult to remove the trailers, causing further delay in compliance with the conditions of approval.

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Board Members discussed calling Mr. Lynch asking that he remove the trailers as required by the conditional of approval. In addition to the telephone call, Board Members also request that a letter is written to follow-up the verbal request to comply with the conditions of approval.

***Member Hudson made a motion to call and write a letter to Mr. Lynch requesting compliance with the conditions of approval to remove the two trailers from the property, Member Martindale seconded the motion as stated; the motion passed unanimously***

Board Members were reminded of the site walk due in the spring to confirm the run-off mitigation measures in place and the efficacy of the design submitted to the Board.

Board Members briefly discussed exercising more diligence about setting deadlines for compliance with conditions and timelines for specific items pertaining to an application approval.

Chair Girard called for further discussion, hearing none; discussions were concluded and redirected to the next item on the Agenda.

**Administrative Business**

**Estate of Celon E. Kelley** – Tax Map 409 Lot 45 – **PB 1709** – Gale Road – Additional plan to be signed for the Planning Board file.

It was explained to the Board that the approved subdivision plan the Board signed had been removed from the file and could not be located. Chair Girard is requested to sign a copy of the subdivision plan at the conclusion of the meeting. Chair Girard is agreed to the request and will sign the plan.

**Senate Bill 406** – An Act relative to merger of lots or parcels.

Board Members reviewed the Senate Bill and agreed that if the Bill is to pass it would conflict with the current Zoning Ordinance – Article VII – C: 1.

*A lot of record which does not meet all the requirements of this Ordinance (a non-conforming lot) shall be merged with all other contiguous lots of the same ownership, except as provided by RSA 674:39. This action may eliminate the non-conforming lot status.*

Selectmen's Rep. Guarino questioned if the Board had submitted an opposition statement to the House or Senate.

Board Members agree that the LGC would be the governing body to speak to a Senate or House Bill under consideration. Individuals wishing to speak would have the opportunity when the Senate Hearings are conducted.

Vice-chair Funk questioned the origin; Board Members briefly discussed what was once known as "The Nighswander Act". Member Russell stated that he had a rapport with some of the Bill's sponsors and would obtain additional information.

Board Members briefly discussed without conclusion the rights of the property owner vs the rights of the town to enforce ordinances and regulations.

It was noted that the thinking at the time when the mandatory merger ordinance was voted on, was that the smaller non-conforming lots of record were a challenge to develop with the existing setback requirements. Merging the smaller lot owned by a resident that also owned another abutting lot was in keeping with the spirit of the ordinance and ultimately less costly for the community.

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Chair Girard called for further discussion, hearing none; redirected to the next Agenda item.

**Gilmanton Waterfront Vacant or with Outbuildings** – FYI – Follow-up information related to the Article VI proposed Zoning Ordinance Amendments.

The information related to the vacant lots on the lakes in Town was requested following discussions regarding the proposed Zoning Amendments.

Selectmen's Rep. Guarino questioned if camping permits would be issued to vacant property listed on Sawyer Lake.

Board Members all agree that camping on Sawyer Lake is limited to those approved by the Lake Association and there will be no additional camping permits allowed on the lake.

Chair Girard called for further discussion, hearing none; discussions were concluded.

**General Information Packet** – Miscellaneous information from OEP, LGC.

New Member information provided to John Weston, Alternate Member recently appointed to the Planning Board. Additional copies were provided to existing Board Members as well.

- RSA 673:3-a Training
- Planning for Development – A Planning Prospective – NH OEP
- Duties of Municipal Planning Boards – NH-LGC
- Municipal and Regional - Planning Assistance Planning Board FAQ's – NH OEP
- Zoning Ordinance Changes – FAQ's – NH-LGC
- Rehearing by the Planning Board – MH-LGC
- RSA 676:4 - Procedure for Application Review – NH OEP
- Checklist for Subdivision Review – NH OEP
- RSA 36:54-58 – Criteria for Determining Regional Impact – NH OEP

Chair Girard called for discussion, hearing none; redirected to the next discussion item on the Agenda.

**NH Planners Association** – 2010 Membership Renewal \$40.00

The Board was requested to approve the NH Planners Association 2010 Membership. The membership provides conference and learning opportunities for Board Members. Chair Girard entertained a motion to approve the expenditure.

***Member Russell moved to approve the \$40.00 expenditure to renew the NH Planners Association Membership for one-year, Member Hudson seconded the motion as stated; the motion passed unanimously.***

**Unscheduled Business**

**Compliance Hearings Request**

It was brought to the Board's attention that 9 conditionally approved applications from 2009 had not complied with the conditions of approval as outlined in approval letters sent to the Applicant. Of the 9 applications, 3 have responded positively to the reminder call made. Six of the applicants have not responded at all to the calls made.

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The Board is requested to conduct compliance hearings for the remaining 6 conditional approved applications.

Board Members agree to conduct compliance hearings for non-compliance of a conditional approval on the remaining 2009 applications. Board Members requested the specific RSA and Regulations pertaining to compliance hearing be stated in the letter to the property owner.

Chair Girard called for further discussion, hearing none; discussions were concluded.

**Adjournment**

***Member Martindale moved to adjourn the meeting at 8:25 pm, Member Russell seconded the motion as stated; the motion passed unanimously.***

Respectfully submitted,

Desiree Tumas