

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
Ralph Lavin, Select Rep
Marty Martindale, Member
Wayne Ogni, Member
Laurie Sanborn, Member
John Weston, Member

Minutes of the Meeting

May 10, 2012

Members Attendance N. Girard, Chair; Ralph Lavin, Select Rep; Marty Martindale, Member; Wayne Ogni, Member; John Weston, Member; Desiree Tumas, Administrator; Absent John Funk, Vice-chair.

Public Attendance **(As signed in)** Elizabeth Hackett, ZBA Chair; Perry Onion, ZBA Member; Nate Abbott, ZBA Member; in attendance and not signed in.

Open Meeting

Call to Order @ 7:03 pm
Introduction of Board Members
Explanation of Meeting Procedures

Approval of Minutes

- 1. April 12, 2012 – Regular Meeting**

M. Martindale moved to approve the April 12, 2012, Minutes of the Meeting as amended, R. Lavin seconded the motion as stated; the motion passed unanimously.

Public Hearing Continued from October 13, 2011

- 1. PB Case 1111 (Original PB #1407) Ryan Benson/BMMC Contractor Yard/Robert & Dianna Vayda, Property Owner**- Notice is hereby given in accordance with RSA 676:4-a the Planning Board will hold a continued public hearing on May 10, 2012. Hearings begin at 7:00 pm, at the Academy Building Conference Room for the purpose of considering whether to revoke a plan previously-approved on October 11, 2007, and filed with the Belknap County Register of Deeds. Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

N. Girard opened the public hearing.

R. Benson was not in attendance.

Board Members were provided a copy of the Staff Report and photos of the site taken on May 10, 2012.

N. Girard summarized the case, explaining the following that occurred during the public hearing on October 13, 2011;

- R. Benson testified that he would remove the stumps/roots and give the logs to Mr. Potter for use with his wood burning furnace.
- R. Benson testified that he would screen the dirt pile in the spring.
- R. Benson agreed to the May 10, 2012, continued hearing date

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To date no action has been taken on the site, despite R. Bensons stated agreement to bring the site into compliance with the original approval.

Although of no consequence to the ruling, Staff did receive email from Dian Vayda inquiring about the status of the approval. It was also noted that the Property Owners, Robert and Dian Vayda currently have the property on the market.

It was questioned if R. Benson had contacted Staff prior to the continued hearing. To date, R. Benson has not made contact with Planning Staff. The last time Staff spoke to R. Benson was at the October 13, 2011, public hearing.

N. Girard called for Board comments and M. Martindale stated that the rules were laid out and R. Benson was agreeable to the conditions outlined at the October 13, 2011, hearing.

L. Sanborn requested clarification regarding the violations on the site.

Past violations were reviewed and it was explained that the various violations have been ongoing for over a year and at the October 13, 2011, meeting. R. Benson stated agreement to remedy the violations.

M. Martindale stated that he could understand if the pile was not screen, but that R. Benson has had since October 13, 2011, to remove the stumps/roots & could have given the logs to Mr. Potter, as was his testimony.

L. Sanborn questioned the Boards requirement to have the site in compliance by, "Spring". It was explained and R. Benson stated understanding that the site needed to be in compliance by the May 10, 2012, meeting.

N. Girard further explained that R. Benson thought the April Meeting would not allow enough time and requested the May 10, 2012, meeting. The Board was agreeable with the May 10, 2012 date for the continued hearing to be conducted.

N. Girard went on to explain that during discussions last October the Board concluded that Spring begins mid-March and by May 10, 2012 would be more than enough time to bring the site into compliance.

J. Weston questioned if anything on the site had changed. It was explained that the screening had not been started and there were more stumps/roots and logs located on the site.

L. Sanborn questioned comments made by D. Tumas at the site related to the site looking cleaner.

D. Tumas explained that the surface area was cleaned up, but upon further inspection it was noted that there were a couple piles that appeared to be garbage.

N. Girard explained that after the October 13, 2011, meeting, she went to the site and confirmed that there was in fact debris such as asphalt and construction materials contained in the pile due to be screened, which contradicts R. Benson's testimony that the pile consists of site overburden.

M. Martindale questioned what the Cease and Desist Order would do. It was explained that R. Benson would have to cease all activity and remove everything from the site and is done in conjunction with the revocation.

W. Ogni questioned if R. Benson could have received approval to have other materials other than those originally approved.

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It was explained that R. Benson had applied for an amended site plan last summer. During the October 13, 2012, hearing, R. Benson denied that an application had been submitted. D. Tumas explained and provided copy of the application to amend the site plan that was completed and submitted by either R. Benson's mother or sister.

N. Girard explained, the Board wanted the site to be cleaned up and in compliance with the original approval before moving on to address the proposed amendments to the site plan. To allow time to complete the work, the Board continued the hearing until August 11, 2011.

There was a problem with the municipal email and notice of R. Benson's inability to attend the August 11, 2011, meeting was not received in a timely manner. The Board continued the hearing until September 08, 2011, at which time R. Benson did not attend and the PB denied the request to amend the original site plan. Email again was received from R. Benson indicating the site was in compliance. Upon inspection of the site on September 9, 2011, by M. Martindale, D. Russell and D. Tumas, it was noted that items remaining were not consistent with the items approved to be onsite.

R. Benson attended the October 13, 2011, meeting and again requested additional time clean up the site. It was at that time the PB requested the site be brought into compliance with the original approval by the Spring, or the May 10, 2012, meeting.

L. Sanborn reconfirmed that, if R. Benson had attended this meeting and removed the stumps/roots, and logs, and screened the dirt pile as conditioned by the Board and agreed to by R. Benson, the approval would not be in jeopardy.

N. Girard confirmed L. Sanborn's statement adding that the Board has extended every opportunity to R. Benson since March 2011. There has to come a time when the Board has to make the tough decision. M. Martindale added that the Board has been going "round and round" on this and a decision has to be made.

W. Ogni questioned if revoking the approval will result in the materials, equipment and other items being removed from the site. The Cease and Desist that will be filed will be the motivating factor to remove everything from the site.

N. Girard explained that the Board has exhausted all avenues to gain compliance and it is up to the Applicant to comply with the conditions of approval or risk having that approval revoked. Adding the BOS make the final determination to move forward with the Cease and Desist Order once the Planning Board revokes a recorded approval.

L. Sanborn questioned when the next meeting was and if the PB would entertain another chance.

N. Girard explained that she cannot speak for the Board, but will ask the Board to consider how many opportunities have been afforded.

It was noted that the Board has had (9) nine meetings and/or hearings on the matter in a period of (1) one year.

L. Sanborn stated agreement that the Board had given many opportunities to the Applicant.

Board Members stated agreement that R. Benson should have been in attendance at the hearing this evening.

J. Weston stated agreement that the Applicant should have attended the meeting and has had ample time to comply with the conditions of approval.

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L. Sanborn questioned when R. Benson would have been notified of the meeting. D. Tumas explained that R. Benson was notified of the continuance at the October 13, 2011, meeting when he agreed to the date based on his schedule.

N. Girard called for further discussion, hearing none; entertained a motion.

M. Martindale moved to revoke the approval granted to Ryan Benson to operate the BMCM Contractor yard ad depicted on the plan entitled: Site Worksheet prepared for BMCM Construction, located at 1955 NH Route 140, and prepared by Richard D. Bartlett & Associates, LLC, which the Board granted the original conditional approval on October 11, 2007, for the following reason(s):

- 1. Failure to bring the site into compliance with the original conditions of approval granted on October 11, 2007.***
 - a. Disposal of the stumps and roots***
 - b. Removal of logs***
 - c. Screening the dirt pile***

W. Ogni seconded the motion as stated;

N. Girard called for further discussion, hearing none; N. Girard called for a Roll Call Vote on the Motion as stated; Wayne Ogni – Aye; Marty Martindale – Aye; Nancy Girard – Aye; John Weston – Aye; Laurie Sanborn – Aye; Ralph Lavin – Aye

N. Girard entertained a motion to move forward with the Cease and Desist.

M. Martindale move to seek BOS approval to send the materials to Town Counsel for the Cease and Desist Order to be filed, W. Ogni seconded the motion as stated; the motion passed unanimously.

Having no further business to discuss on the matter, N. Girard closed the public hearing.

Discussions

1. Zoning Ordinance – Table of Uses

N. Girard explained the Board was in the process of updating the Zoning Ordinance, Table of Uses to increase the number and type of business uses in the Town of Gilmanton.

The Board will create a short survey for the residents using questions pertaining to the Commercial Development Section of the Master Plan. NH Office of Energy and Planning has survey questions available for such a use.

The intent of the survey will be to receive comments from the residents as to what type of commercial development they would like to see come to Gilmanton. The survey will be available at various locations in town as well as on the web. Information about the survey will be advertised in the Laconia Daily Sun and the Suncook Valley Sun.

The Planning Board in addition to discussions at the regular meetings will schedule a couple work sessions to complete the update, if needed.

It was explained it will be multi-step process to completely update the Table.

- 1st – Adding uses
- 2nd – What Zones to permit and not permit a use
- 3rd – Oversight – Special Exception or Conditional Use Permit Requirements
- 4th – Public Hearing
- 5th – 2013 Ballot Warrant Article

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N. Girard asked if E. Hackett and P. Onion were satisfied with the plan to update the Zoning Ordinance Table of Uses. Both were agreeable to the proposal as explained.

Tentative Table of Uses – Update Schedule

- June 14, 2012 - Board Members will review and select questions to be included in the survey.
- July 12, 2012 – Review the survey results and begin adding uses to the Table.
- August 9, 2012 – What zones to permit and oversight – Site Plan Review only or will a Special Exception or Conditional Use Permit be needed.
- September 13, 2012 or October 11, 2012 – Public Hearing

Once approved during a public hearing, the final approval will come during the March 2013, Election. The proposed amendments to Table will be a warrant article on the Ballot.

The Board and attending public briefly discussed various locations that would be suitable for commercial development and concluded that NH Route 106 is already zoned for commercial development. Also discussed was the timeliness of the update with consideration of the I-93 expansion. It was also noted that the mass transit train may be coming to Concord and there might be plans to expand NH Route 140, in the future.

It was questioned why the uses are being increased and why the uses must be regulated.

It was explained that without specific zoning requirement pertaining to a business, it could be argued that without specificity, a business could seek approval to locate anywhere in Town. The goal is to bring in responsible commercial/business to help offset the taxes.

The Board and attending public briefly discussed the suitability of the AE Mitchell gravel excavation site to develop an industrial park. To date no one has engaged Mr. Mitchell in such conversation.

Members briefly discussed the School Board’s reluctance to allow community information to pass to the parents. N. Abbott stated he would look into the matter and get back to the Board.

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

N. Girard thanked the ZBA Members for attending.

2. Review and Approve New Applications & Administrative Documents

To allow time for review, Board Members were emailed copies of the new applications and administrative documents in April.

M. Martindale moved to approve the new applications and administrative documents, W. Ognì seconded the motion as stated; the motion passed unanimously.

The following applications & Administrative Documents were approved:

Application File Checklist	Application Year End Totals
Application Fee Collected	Deposit Slip
Technical Review Memo	Technical Review Recommendations
Technical Review Report	Subdivision Application & Checklist
Application – Design Review	Plan Checklist
Conditional Use Permit Application	Voluntary Merger Form
Lot Line Adjustment Application & Checklist	

Ralph Lavin, Select Rep., departed the meeting at 8:26 pm.

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**Other Business
Correspondence**

- 1. Plaque Maker.com - \$81.00 Thank you gifts for outgoing Members D. Hudson, D. Russell and Select Rep. R. Hatch. The gift was a glass paperweight with a laser engraving of the Gilmanton, Town Seal.**

J. Weston moved to approve reimbursement to Desiree Tumas, in the amount of \$81.00 for out of pocket costs to order the outgoing Member gifts, M. Martindale seconded the motion as stated, the motion passed unanimously.

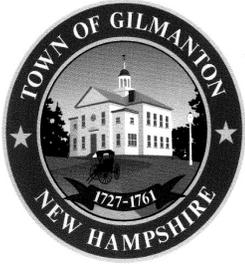
**Unscheduled Business
Adjournment**

N. Girard called for further business to come before the Board, hearing none; entertained a motion to adjourn the meeting.

M. Martindale moved to adjourn the meeting at 8:35 pm, W. Ogni seconded the motion as stated; the motion passed unanimously.

Respectfully submitted,

Desiree Tumas
Administrator



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 - a. Disposal of the stumps and roots***
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W. Ogni seconded the motion as stated;

N. Girard called for further discussion, hearing none; N. Girard called for a Roll Call Vote on the Motion as stated; Wayne Ogni – Aye; Marty Martindale – Aye; Nancy Girard – Aye; John Weston – Aye; Laurie Sanborn – Aye; Ralph Lavin – Aye

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Adjournment**

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Respectfully submitted,

Desiree Tumas
Administrator