



**Town of Gilmanton, New Hampshire  
Planning Board**  
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Wayne Ogni, Chair  
Marty Martindale, Vice Chair  
Bill Mahoney, Member  
Roy Buttrick, Member  
John Weston, Member  
Justin Caldon, Member  
Don Guarino, Selectmen Rep  
Mike Jean, Alt Select Rep  
Louise Knee, Planning Admn  
Mark Fougere, Certified Planner

**APPROVED**

**Minutes  
February 11, 2016**

Chairman Wayne Ogni called the meeting to order with an introduction of the Board Members and welcomed the public. Individuals who signed the Sign-In sheet were: Raymond Daigle, Will Dean, Ken Hassen, Todd Rodgers and Phil Eisenmann. Mr. Ogni noted that there are no applications before the Board or public hearings scheduled, just Conceptual Consultations and added that Conceptual Consultation route provides a non-binding opportunity to explore ideas with the Board and receive feedback

**ROLL CALL**

Members present were: Chair Wayne Ogni, Vice Chair Marty Martindale, Member Bill Mahoney, Member John Weston, Member Justin Caldon and Selectmen Representative Don Guarino. Also present was Louise Knee, Planning Administrator. Excused was Member Roy Buttrick. The services of Mark Fougere, Certified Planner, were not required at this meeting.

**I. PUBLIC HEARINGS**

None scheduled.

**II. CONCEPTUAL CONSULTATION**

- 1. Conceptual plan review request by Todd Rogers d/b/a as Case Jones Bones on property located Route 106, Map 412, Lot 018, in the Business Zone to construct a 2,400 SF building and to establish a combination retail sales (in 1,020 SF) and manufacturing of all natural dog food products (in 1,380 SF)**

Chair Ogni read the request into the record. Bill Stack, PE from Steven J Smith & Associates, Inc., introduced himself and the partners of Case Jones Bones, Todd Rogers and Ken Hassen. Mr. Stack posted the Site Plan, identified the location of the 5.1-acre site on Route 106 with 200' of frontage and outlined the existing topography of the site noting that the front portion is relatively flat with a hillside rising to the rear. Mr. Stack stated that they have submitted the driveway permit application to DOT (NH Department of Transportation) but not yet to DES (NH Department of Environmental Services).

Ken Hassen stated that they have been operating in Hudson, NH and wish to relocate to Gilmanton where they will construct a building approximately 2,400 SF (Square Feet) in size with the front half dedicated to retail and the rear to the manufacturing their product. Mr. Hassen distributed an architectural rendition of the building, a write-up outlining their business operation and a sample of their product. The hours of retail operation will be 8 AM – 8 PM, the

shipping hours will be 8 AM – 4 PM and they are expecting to employ no more than six (6) employees for both retail and manufacturing.

Mr. Stack referenced the technical review comments from Mr. Fougere. Lighting will down-lit, LED with motion sensors. The dumpster will be fenced and gated. The steep grade at the back will not require slope adjustment with the proposed placement of the building and the loading dock to the side instead of the rear. The turning radius does accommodate a WB50 and it is anticipated that there will be one WB50 truck delivery to the site in a week.

Additional information obtained through Board Member questions. Odors will not be obnoxious or offensive, the aroma will actually smell like a bakery as they will use all natural products and most of the waste is either recyclable or compostable. Noise during the process will be localized in the kitchen, which will have a glass divider for customer viewing of the process, and the noise will be mostly generated/noticed when the rotary blades of the 60-quart mixer are in use. Second floor of the building is to be for storage. Question asked if there will be an office on premise and if so, it should be on the plan. Utilities: propane tanks to be shown on plan and protected; electricity to be capable of servicing the ovens, refrigerators, fans, mixers. Driveway to the abutting neighbor's driveway is closer to the property line not abutting the development and the elevation difference would naturally shield noise and light.

It was noted that the plan is complete enough to proceed and if the abutters list and fees were received the following week, the Public Hearing can occur at the March 10, 2016 meeting.

## **2. Conceptual Consultation by Richard Merrill to establish a “flea market” at 90 South Road, Map 421 Lot 12 in the Business Zone.**

Mr. Ogni read the request into the record. Richard Merrill introduced himself, stated that he bought the property in December 2015, that the property used to belong to his grandfather and that he would like to be able to do a small flea market on site that would be bigger than a traditional yard sale. The flea market would run about six months per year, Saturdays and Sundays from 7:00 AM to 5:00 PM and have approximately 35 tables per weekend. Two porta-potties will be on site and Mr. Merrill stated that he would like them to remain on site during the week as he is working on an arrangement with Pittsfield Septic to have them serviced/cleaned out every Tuesday. The lot is currently empty, except for a 26'x60' concrete slab. There are plenty of places to park on site so that there will be no backing out onto the road and no parking on the road. Mr. Merrill distributed a hand sketch of how the site would be laid out, identifying the vendor tables, vendor parking and customer parking and noted that they are all to the front of the site so as not to interfere with the beaver pond at the rear of the site. Mr. Merrill stated that Road Agent Paul Perkins has already been consulted and did not express any concerns.

In response to Mr. Weston's question, Mr. Merrill stated that if business traffic is good he has no problem adding two more porta-potties. In response to Mr. Ogni's question, Mr. Merrill stated that the site is approximately one half mile from Route 106 and would like to have two signs, one a directional sign by the dirt road and a business directional sign by Route 106. In response to Mr. Weston's question, Mr. Merrill stated that the vendors may have “easy-up” tents. Mr. Guarino stated that Mr. Merrill should have a contingency plan for over-flow parking.

Ms. Knee stated that without a structure, the proposal cannot qualify for Site Plan Review, however, it could be processed as a Change of Use [from vacant land to a new Use] or perhaps go for a Hawkers & Peddlers Permit from the Board of Selectmen. Board discussed. Consensus reached that the Hawkers & Peddlers route is not the best route considering the on-going weekend proposed schedule and that a Change Of Use from the Planning Board should be applied for especially since that avenue allows for abutter notification and public notice. Considering the timeframe and Mr. Merrill's concurrence, a Public Hearing could be scheduled for the Board's April meeting, providing Mr. Merrill submits the required material and fees.

**3. Conceptual Consultation by Henry Vigeant regarding potential Change of Use for The Corner Slice, 518 Province Road, Map 127, Lot 37, in Village District from retail/take-out/gas to sit-in restaurant/take-out/ gas.**

Mr. Ogni read the item into the record. Rachel Vigeant introduced herself and her husband, Henry Vigeant. Mrs. Vigeant stated that they started the process back in November (2015) and that their intent has never been to open a restaurant and are not sure what is considered a "change of use". Ms. Vigeant stated that she understands that it is the pictures she posted on the web that sparked the question of it being a restaurant. Their intent is for take-out food with the seats as a convenience while people wait for their food to be prepared and also to offer a safe place for children to wait for their parents to pick them up. Ms. Vigeant stated that they can fit nineteen (19) seats but the number is negotiable depending on what the Board considers the number to be that would define it as a "change of use" and a "restaurant" as they would like to get their door open for business as soon as possible.

Mr. Weston and Mr. Martindale stated that, in their opinion, seats and tables define a restaurant and seats and tables were never part of the previous business. Ms. Vigeant questioned if the similar store at Iron Works has been classified a restaurant. Discussion arose on the term "change of use" as it is defined differently for the Zoning Board, the Planning Board and also by the Building Code. The Zoning Ordinance (ZO) definition of a restaurant is the catalyst that will require a Special Exception from the ZBA (Zoning Board of Adjustment) and a determination by the Planning Board regarding the Change of Use status. A Special Exception has criteria that need to be met that are similar to the criteria of Site Plan Review by the Planning Board.

Ms. Knee confirmed that Mr. Vigeant has been before the Historic Commission for approval on the exterior color and the sign and has been in the process of painting as well as "hoeing out" the contents left from the prior owner. Ms. Vigeant confirmed the hoeing out process and doing repairs and added that underneath the wood panel walls and new floor the old still remains. The internal construction and presence of an electrician's vehicle at the site were the catalysts for the letter issued by the Building Inspector as neither a building or an electrical permit were pulled.

Mr. Vigeant stated that he has been a GC (General Contractor) for many years and was not aware that he needed to pull any permits and explained what the electrician did at the site. Will Dean stated that he is the husband of the property owner, that she is unable to be at this meeting and that he is her designated messenger. Mr. Dean stated that they own a number of properties and it is their desire and intent to be good citizens and be open and transparent. When they brought in the electrician, who is a Master Electricians and a local electrician, he told them they did not need to pull a permit, but now that they know, they will make sure he comes to pull a permit

before they make their final payment to him. As property owner, they take responsibility for this oversight.

Mr. Dean stated that when they were contemplating buying, they walked the site, talked to people and learned that in addition to offering gas and take-out it was a convenience store and kind of the hangout for the senior coffee club in Town. There were cooking facilities in the premise with most of them hidden from public view, several even in the garage. Mr. Dean stated that they are replacing the pizza oven, the range and most of the kitchen appliances. With regard to the convenience store, that aspect will be downsized significantly, keeping just the high volume refrigerated items, like milk, eggs and bacon. The gas pumps will remain and gas will be sold. People will still be able to congregate, but in a much more open space. The business will concentrate mainly on carry-out. Mr. Dean stated that they do not anticipate changes in traffic patterns or parking needs and will offer it as a safe haven for children when they are dropped off from the school bus and waiting for their parents. Mr. Dean stated that he sees no change of use – it is still a gas station, convenience store, pizza and take-out. The questions are: what do they have to do?; can it be expedited?; what is the “roadmap” if it is considered a restaurant or not?; can they open for business without seats until a decision is made?

Mr. Caldon stated that permits are required from the State, for food and septic before it can open for business. Ms. Knee stated that the office received a copy of a letter issued by NH Dept of Health & Human Services on 1/14/16 regarding the need for a pre-operational inspection prior to issuing a permit to serve food. Mr. Ogni stated that the Fire Chief’s questions also have to be addressed and offered the example of the pizza oven now located in the garage and egress and possibly an assembly permit. Mr. Dean stated that there was a pizza oven in the garage. Mr. Ogni stated was no electricity for the pizza oven in the garage and to his knowledge there was never any food preparation done in the garage by the prior owner and that the garage just had several freezers. Mr. Vigneant agreed, there were freezers and electrified through/by extension cords and explained how the electrician corrected.

Discussion focused on the next steps regarding the Town, noting that State permits’ requirements are in addition and required before opening up for business. First step is to pull a Building Permit and schedule an inspection by the Building Inspector to insure compliance based on load calculation, review of circulation path and aisle width for second egress determination as well as other building related factors. Second step is meet with the Fire Chief. Third step is to apply to the ZBA to have a restaurant in the Village District. Fourth step is to apply to the Planning Board for a Change of Use determination as there are different considerations for a restaurant than a general store.

Discussion arose on the differences. With regard to the septic system impact, it could be less as one of the apartments will be converted to an office, there will be no waiters/waitresses and only paper products will be used so there will be no dishwasher. Question raised on how waste will be managed. Parking, per regulations, requires 0.55 space per seat and site offers six but parking on road has historically been done. The majority of business will be take-out with orders coming by phone or internet. Mr. Vigneant stated that if additional parking is needed, there is a possibility to extend the retainer wall to the back and create additional parking. Hours of

operation proposed to be Sunday through Thursday from 11:00AM – 8:00 PM and Friday & Saturday from 11:00 AM – 9:00 PM.

Administratively, a joint meeting with the ZBA could be scheduled and one public hearing held with the possibility of a decision on/from both in the same evening. Mrs. Vigneant asked for a joint meeting. Ms. Knee advised that the ZBA would be willing to meet with PB on March 10<sup>th</sup>. Consensus reached to hold a joint meeting on Thursday, 3/10/2016 with a Site Walk prior to the meeting at 6:00 PM.

### **III. OTHER BUSINESS**

#### **1. 2015 Planning Board report for Town's Annual Report**

Mr. Ogni read the item into the record. Board reviewed the draft prepared, made a few changes and asked Ms. Knee to amend and submit.

#### **2. 2016 proposed budget**

Mr. Ogni read the item into the record. Board reviewed. Ms. Knee stated that the additional funds requested to engage Mark Fougere to assist in the Master Plan update was approved; however, the request to track it separately in the 2016 budget did not get executed. Ms. Knee stated that she spoke with the Finance Director who advised that there is a mechanism to track the difference in the budget line.

#### **3. Master Plan and Capital Improvement Plan (CIP) update**

Mr. Ogni read the item into the record and provided an update.

### **IV. MINUTES: 10/8/2015, 11/12/2015, 12/10/2015 and 01/07/ 2016**

October 8, 2015 Minutes: Board reviewed and applied a few edits. **Motion** made by Mr. Martindale and seconded by Mr. Mahoney to approve the 10/8/15 Minutes as presented and edited. Vote was 5:0:1, Mr. Weston abstained. Motion passed.

November 12, 2015 Minutes: Board reviewed. **Motion** made by Mr. Weston, seconded by Mr. Martindale and unanimously voted to approve the 11/12/15 Minutes as presented.

December 10, 2015 Minutes: Board reviewed and made a few changes. **Motion** made by Mr. Martindale, seconded by Mr. Caldon and unanimously voted to approve the 12/10/15 Minutes as presented and amended.

January 7, 2016 Minutes: Board reviewed. Mr. Martindale asked to have the individuals identified in the public hearing as either supporting or not supporting the petition warrant article. **Motion** made by Mr. Caldon, seconded by Mr. Martindale an unanimously voted to approve the 1/14/2016 Minutes as presented and as to be amended.

### **V. CORRESPONDENCE & OTHER BUSINESS:**

- **New Member: Steve McCormack**

Request submitted for a full Regular Member; however, there are only Alternate positions available. Mr. Weston stated that he began as an Alternate and found himself actively participating as there seemed to a Regular Member either absent or recusing himself.

- **Rules of Procedure**

Ms. Knee stated that according to the version of the Rules for Procedure in her work computer, an Alternate Member can sit at the Board table during presentation from the applicant(s) and the public hearing but has to remove himself from the Board table once deliberation begins. Several Members questioned the validity and merit of that specification and asked Ms. Knee to check for the last official signed Rules of Procedure for review. It was noted that the Rules can be adjusted/amended at a regular noticed meeting.

**Motion** made by Mr. Martindale, seconded by Mr. Guarino and unanimously voted to adjourn the meeting. The 2/11/2016 Planning Board meeting adjourned at 10:30 PM.

Respectfully submitted,  
Louise Knee, Planning Administrator

Authorized by: \_\_\_\_\_  
Wayne Ogni, Chairman