



**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
Steve McCormack, Alternate
Steve McWhinnie, Selectmen Rep
Mike Jean, Alt Select Rep
Louise Knee, Planning Admn
Mark Fougere, Certified Planner

Minutes

**Thursday – May 12, 2016
7:00 pm at Academy Building**

The Gilmanton Planning Board met on Thursday, 5/12/2016, in the conference room of the Academy Building at 503 Province Road. Chairman Wayne Ogni called the meeting to order at 7:02 PM with an introduction of the Board.

ROLL CALL

Members present were: Bill Mahoney (R), Marty Martindale (R), Steve McCormack (A), Wayne Ogni (R), John Weston (R) and Selectmen Representative Stephen McWhinnie. Also present was Louise Knee, Planning Administrator. The services of the Town Planner, Mark Fougere, were not requested for the meeting. Chairman Ogni appointed Alternate McCormack to vote. Justin Caldon (R) arrived at 7:04 PM. Roy Buttrick (R) arrived at 7:06 PM. With all Regular Members in attendance, Alternate McCormack would not be voting.

I. PUBLIC HEARINGS

1. **Application #701-2016 Lot Line Adjustment** submitted by Bryan Bailey, LLS, to **adjust 3.4 acres from** the 6.37 acre-property owned by Raymond & Candace Daigle and Michael & Susan LaRoche at 250 Province Road on Map 124 Lot 003 in the Light Business District **and add 3.4 acres to** the 26.01 acre-property owned by the Candace L. Daigle Trust at 216 Province Road on Map 123 Lot 001 in the Rural Zone. Result: Lot 003 to become 3.0 acres and Lot 001 to become 29.38 acres.

Mr. Ogni read the application into the record. Ms. Knee reported that the Administrative Review detected that not all property owners had signed/authorized the adjustment and that additional fees were required. Ms. Knee stated that both were resolved expeditiously with Mrs. Daigle. Mr. Knee reported that Technical Review by Mark Fougere identified minor items, as identified in his 4/29/16 email, and a revised plan was submitted. Only a portion of the larger lot, Lot 001, appears on the plan and a copy of the Tax Map was provided that shows Lot 001 in its entirety. The question remains whether Lot 001 has a survey on file or whether a waiver would be needed.

Ms. Knee reported that the application was advertised for a Public Hearing; that the abutters were timely and duly noticed of the Hearing; and that the Town Official Review Form was distributed. Ms. Knee stated that most were returned with the “no concern” box checked off and that the ZBA commented that Lot 001 would now reside in two Zones allowing for the expansion of the existing business to go unnoticed.

Bryan Bailey, LLS, introduced himself and Candace and Raymond (Mickey) Daigle, stated that the application is for a boundary line adjustment between two lots that are side-by-side on Route 107 just north of this building and just past the recycling facility on the left side of the road. Mr.

Bailey stated that two plan sheets were submitted, one that shows the contours for Lot 3 and the front portion of Lot 1 and one without contours for recordation and noted that each one shows the location of the existing residences, structures, septic systems and wells. Neither Plan sheet shows the entirety of the Lot 1's 26 acres. Mr. Bailey attested that there is a survey on file for Lot 1 and provided a copy of the tax map that shows both lots in their entirety. Mr. Martindale noted that the back boundary of Lot 1 is Badger Brook that comes from Sawyer Lake. It was noticed that the Zone boundary lines of Light Business and Rural occur at the northern and west/rear property lines of Lot 3.

Mr. Bailey stated that Lot 3 is 6.37 acres and the proposal is to reduce it to 3 acres. The remaining land of 3.37 (rounded to 3.4 on the plan sheet) acres is identified as Parcel A on the plan but will not become a lot as it will be annexed to Lot 1, increasing its acreage from 26.01 acres to 29.38 acres.

Mr. Bailey stated that there is an oddity that rarely surfaces with boundary line adjustments and because Lot 3 will be reduced to less than five acres and has an existing residence, they had to apply for a NH DES (Department of Environmental Services) Subdivision approval. Mr. Bailey stated that they received the State permit and added Note 8 to the Plan identifying the approval number (eSA2016040103) and the date approved (04/01/2016).

Public Hearing opened at 7:11 PM and closed at 7:12 PM. No one addressed the Board.

Mr. Martindale asked if there was anything proposed for Lot 1. Mr. Daigle responded that there are no plans to change anything and noted that due to the topography, the only access to the backland of Lot 3 has been through his land and this adjustment provides protection.

Motion made by Mr. Martindale, seconded by Mr. Mahoney and unanimously voted to approve Planning Board Application #2016-701 for a Lot Line Adjustment, as described above, and based upon the plan presented by Bryan L. Bailey, LLS, titled *Boundary Line Adjustment Plan Land Located At 216 & 250 Province Road, Gilmanton, NH*, dated 03/24/2016 and updated 04/13/2016 & 04/29/2016 with the condition that the pins for the property line boundaries be set prior to recordation of the Plan.

II. CONCEPTUAL CONSULTATION

1. **Application #702-2016 Lot Line Adjustment** submitted by Bryan Bailey, LLS, to **adjust approximately 10 acres from** 106-acre-property owned by Kathleen & Gary Brooks at 244 NH Rte 140 on Map 413 Lot 095 in the Rural Zone **and add approximately 10 acres** to 9.94 acre-property owned by Christopher Gamache & Kristina Toth at 150 NH Rte 140 on Map 413 Lot 096 in the Rural Zone. Result: Lot 095 to become approximately 96 acres and Lot 096 to become approximately 20 acres.

Mr. Ogni read the application into the record. Ms. Knee stated that the plan was received too late to properly notice abutters and advertise for a public hearing and reported that the plan has undergone both technical and administrative review and referenced emails dated 5/6/16 and 5/12/2016.

Mr. Bailey stated that the proposal is for a boundary line adjustment between two abutting lots, that there is no need to go to the State of NH for subdivision approval as both lots are well in

excess of five acres, and, in its shortest form, it is a transfer of land. Mr. Gamache's property is a long sliver of land of approximately 9 acres with frontage on the west side of NH Route 140, just past Allens Mill Road. The Brook's property is the larger lot with approximately 106 acres with a residence that is almost in the middle of the lot and not visible from the road. The plan is to remove approximately 10 acres from the west end of the Brooks property that has a corridor of land that extends out to NH Rte 140 with a 50' wide access way.

Mr. Bailey stated that two plan sheets had been submitted. Sheet 1 shows the Gamache lot in its entirety, including the acquisition of the 10 acres and a portion of the Brooks' property. Sheet 2 shows the remainder of the Brooks' property. It was noted that the scale of each Sheet were different and the plan sheets do not line up. Mr. Bailey referenced the comments received from Mr. Fougere and attested that Lot 95 has been surveyed in its entirety and that Mr. Fougere's other items will be addressed and a revised plan submitted.

Discussion ensued. Mr. Bailey stated that Ms. Brooks may have been before the Planning Board before to subdivide her property and create a 20-acre lot and had to go to the ZBA (Zoning Board of Adjustment) to obtain a variance to create two lots with reduced frontage. Mr. Bailey noted that that subdivision will not be pursued. Ms. Knee referenced the copy of the recorded Notice of Decision for the variance from ZBA. It was noted that the ZBA was able to grant the variance without creating a non-conforming lot because each lot had frontage elsewhere – on Allens Mill Road, albeit all wet and not readily accessible, and on another section of Rte 140, a section that would be eliminated with the proposed LLA. Mr. Bailey noted that the variance will be moot in one year. Mr. Buttrick questioned some of Mr. Gamache's frontage along Route 140 was not being adjusted to the Brook's property and avoided another adjustment if the Brooks property is subdivided in the future. Mr. Bailey stated that was not requested of him and not part of the plan before the Board and added that the Town of Gilmanton's Zoning Ordinance is the most difficult to understand of all the Towns he has dealt with in and would not presume to know how much frontage would be required for a future unknown subdivision.

III. UPCOMING BUSINESS

1. Potential CUP application to add 6 antenna & 1 dish to tower, 89 Copp Rd, M/L 411/ 28

Mr. Ogni read the item into the record and asked if Mr. Fougere had responded. Ms. Knee confirmed that he did and regardless of what our Zoning Ordinance [ZO] states, Mr. Fougere advised that the governing laws were changed regarding co-location and towns can no longer require special exceptions or conditional use permits for co-locations, per SB101, and that co-locators only have to obtain a building permit; therefore, no Planning Board action needed.

Ms. Knee stated that, during review of the current ZO, discrepancies noted that include: changes apparently made to require a CUP (Conditional Use Permit) from the Planning Board instead of a Special Exception from ZBA for co-location but not consistently incorporated into the ZO; and the passing of SB101 regarding co-locations.

Ms. Knee provided a recap of the initial Planning Board file that conditionally approved the monopole at this site. Conditions included a maximum height of 120', up to three co-locators, and a free mount of a repeater at the top of the tower for the Town. According to the Fire Chief, the Town has not placed a repeater on this monopole.

A Building Permit would be for the mounting of six panel antenna and one microwave dish onto the monopole and the corresponding equipment shed on the ground. The new ruling (SB101) does not allow requiring a structural analysis and even though it is evident a provider would not mount their equipment unless the tower was structurally able to sustain it, it does not provide information whether there is any structural integrity left to the tower for another co-locator.

Mr. Martindale stated that he recalls that there was more concern with the height of the tower than there was with the number of co-locators. Mr. Caldon questioned the owner of the tower. Discussion arose on the location of the tower and the conditions of PB approval. Mr. McCormack asked if the space for the Town's repeater was still available. Mr. Buttrick stated that it has to remain available in spite of any co-locators. Mr. Caldon asked if a balloon test had been done. Ms. Knee showed pictures from various points in Town that showed two balloons – one flown at the 120' height and another at a height of 144'. Mr. Martindale commented that the day the balloons were flown, the wind gusted at 20 mph.

It was noted that a change to the ZO is necessary for co-location and perhaps too for the other issue that arose regarding septic system evaluation in Article III and, also, with consideration of Mr. Bailey's comment earlier in the meeting that our ZO is "difficult". Suggestion made that the ZO be reviewed prior to SPR (Site Plan Review) Regulations.

Discussion arose on the septic issue question and the interpretation of Article III.A SANITARY PROTECTION. Mr. Buttrick voiced his opinion on septic with regard to The Corner Slice and the unavailability of approved plans by both the State and the Town and suggested that Matt Moore be contacted as he installed several systems in the area. Mr. Caldon stated that he gave Matt Moore's contact information to The Corner Slice over a month ago and noted that plans prior to 1984 have been archived, offsite. Discussion branched on the condition of both the Town's and the State's files and filing system.

Mr. Buttrick stated that with regard to the septic issue that went to the Selectmen, there was a current septic plan that was approved and installed in the past couple of years and noted that a septic design is good for four years.

Mr. Caldon stated that he does work in several Towns and there is one that if a building is being raised to put in a foundation, will take the liberty to review and advise where the foundation will get laid and where the house is to be relocated – and do it as part of Shoreland Protection and when issuing a Building Permit.

Mr. Weston asked how adding a bathroom to an existing system affects the load and requires an evaluation. Discussion arose and several opinions were expressed and examples cited. Adding a bedroom adds loading to an existing septic system because loading of a septic design is based on number of bedrooms. Mr. Caldon stated that there are houses built that have a 55-gallon drum and if the lot is a lot of record and has a house with a CO (Certificate of Occupancy) the Town cannot deny them the ability to install an onsite septic system.

Mr. Weston restated that adding a bathroom does not affect load. Mr. Caldon asked if the bathroom was being added to the basement because if it is, the system is being changed from a gravity to a pump-out and would require a new design.

Mr. Martindale stated that it is obvious the Zoning Ordinance needs some work. Ms. Knee stated that ZBA Chair was pleased with Mr. Martindale's offer to review the ZO and participate in changes in the areas that cause them concern. Mr. Ogni stated that they have been asked for the past four years he has been on the Board to participate and never chose to respond. Ms. Knee stated that is probably true but not the truth as the communication never went beyond the administrators of the Boards. Mr. Weston concurred with Ms. Knee regarding prior administrator's lack of communication and cooperation.

Discussion branched into the particulars involved with the issue that was presented to the Selectmen. Concerns were expressed with individuals exceeding their authority. Mr. McWhinnie stated that it is his understanding that once the Planning Board writes an Ordinance and sends it to Town Vote, the Planning Board is done; it is then up to the Zoning Board to enforce it and only when there is an appeal filed. Mr. Ogni agreed and added that it is the Building Inspector who interprets the Ordinance. Mr. McWhinnie agreed and stated that it is his understanding that if the Building Inspector has a question, his course of action is to contact the Town Planner.

Mr. Martindale stated that the bottom line is that the Ordinance should be written clearly with no room for interpretation or misinterpretation.

2. Potential Change of Use application for 136 Rte 106, M/L 421/018

Mr. Ogni read the item into the record. Ms. Knee identified the location of the commercial three-unit building previously approved just north of Allens Mill Road on Route 106 and stated that the property owner currently occupies the entire building, two units for her accordion business and one as her residence since the day care center left. The new business tenant interested in the unit wants to have a dog day care center. Ms. Knee stated that she checked the file and the building was approved with the understanding that a Change of Use would be needed for a new business renting a unit to give the Board the opportunity to review SPR related items such as parking, traffic, lighting, hours of operation etc. In addition, the ZO defines a dog day care as a "kennel" and kennels require a CUP (Conditional Use Permit). Ms. Knee stated that she will be meeting with both the property owner and the dog day care person next week and asked the Board for input on what items or concerns that should be covered in the applications as the plan is to proceed directly to Public Hearing. Board suggestions included: noise and noise control; hours of operation; overnight care offered; number of dogs; whether there are any applicable State regulations; septic system impact; manure management; sign; and number of parking spaces. Ms. Knee asked if the Board wanted a Site Walk scheduled prior to the Public Hearing. Several Members stated that would like to see the interior.

3. OEP 6/4/2016 Conference

Mr. Ogni read the item into the record, noted that several Members have been registered, and asked Ms. Knee to send out a reminder a few days before.

IV. OTHER BUSINESS

1. Election of Officers

Mr. Ogni stated that this item should have been on the published Agenda as it is that time of year again. Motion made by Mr. Martindale, seconded by Mr. Weston and unanimously voted to reappoint Wayne Ogni as Chairman of the Planning Board. Motion made by Mr. Weston, seconded by Mr. McWhinnie and unanimously voted to reappoint Marty Martindale as Vice Chair of the Planning Board.

2. Rules of Procedure – update

Mr. Ogni read the item into the record. Mr. Martindale stated that the Board reviewed at the last meeting and made several changes, particularly with regard to Alternate Members, and that the changes can be identified in red ink on the track-change document provided by Ms. Knee. Board performed a detailed review and presented additional changes. Ms. Knee was asked to produce a version that would incorporate the changes made at the 4/14/2016 PB meeting and show the changes made at this meeting in track-change mode for review at the June meeting.

3. Capital Improvement Plan (CIP) - update

Mr. Ogni read the item into the record. Ms. Knee stated that Town Administrator has been working with the Department Heads and that come June the Selectmen will be meeting only two Monday evenings a week so Mr. Branscome will be able to meet with the CIP Committee.

V. MINUTES: 04/14/2016

Mr. Ogni read the item into the record. Ms. Knee stated that the Executive Summary Minutes were produced but not the detail draft Minutes and asked if the Board would consider accepting the Summary Minutes as the official Minutes if the track-change mode of the Rules were attached. It was noted that the meeting was actually a work session. Board reviewed the Executive Summary Minutes. Motion made by Mr. McWhinnie and seconded by Mr. Buttrick to approve the Executive Summary Minutes as the official Planning Board Minutes for 04/14/2016. Vote was 6:0:2. Mr. Caldon and Mr. Ogni abstained as they had not attended the meeting.

VI. CORRESPONDENCE:

Motion made by Mr. Weston, duly seconded by Mr. Buttrick and unanimously voted to adjourn the meeting. The 05/12/2016 Planning Board meeting adjourned at 8:55 PM.

Respectfully submitted,
 Louise Knee, Planning Administrator

Authorized by: _____
 Wayne Ogni, Chairman