



**Town of Gilmanon, 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
Marshall Bishop, Alt Select Rep
Louise Knee, Planning Admn
Mark Fougere, Certified Planner

APPROVED

MINUTES
Thursday – June 9, 2016
7:00 pm at Academy Building

The Gilmanon Planning Board met Thursday, June 9, 2016. Chairman Wayne Ogni called the meeting to order with an introduction of the Board. Members present were: Roy Buttrick, Justin Caldon, Bill Mahoney, Marty Martindale, Steve McCormack, Wayne Ogni, John Weston and Selectmen Representative Steve McWhinnie. Also present was Louise Knee, Planning Administrator. Excused was Mark Fougere, Certified Planner, as his services were not requested. For the record, the Regular Members voted.

I. PUBLIC HEARINGS

- 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.
Application withdrawn per request of the Applicants

Mr. Ogni read the application into the record, stated that it was before the Board at the 5/12/2016 meeting for a Conceptual Consultation and, per email dated 5/18/2016 from the Bryan Bailey, the application for lot line adjustment has been withdrawn.

- 2. Application #202-2016 Change of Use** submitted Sue Welch of Musette Realty, LLC, as per original approval for the three-unit commercial building, to change one tenant from a children's day care to a tenant for a dog care center at 136 NH Rte 106, Map 421, Lot 018 in Business Zone on 4.45 acres. *Site Walk scheduled for 6/9/16 at 6:30 PM*
- 3. Application #601-2016 Conditional Use Permit** submitted by Brittany Maia to operate The Chic Dog Hotel, LLC, a dog care center [defined as a kennel in the Zoning Ordinance] of up to 45 dogs at 136 NH Rte 106, Map 421, Lot 018 in Business Zone on 4.45 acres. *Site Walk scheduled for 6/9/16 at 6:30 PM*

Mr. Ogni read both Applications into the record and noted that the Site Walk was held prior to the meeting as scheduled. Both Property Owner Sue Welch and Business Owner Brittany Maia were present. Mr. Ogni referenced the Staff Report that was prepared and asked who would be presenting the applications. Roy Buttrick stated that he could present the applications as he helped Ms. Welch. Ms. Welch agreed.

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D R A F T

With regard to the Change of Use application, Mr. Buttrick stated that the property has had several different businesses over the years [auto parts place, daycare, auction barn etc] and that the day care center unit is currently being used as a residence by Ms. Welch who owns and operates the accordion business in the rest of the building. With regard to the Conditional Use Permit, Mr. Buttrick noted that a child daycare had a State license for up to forty-two (42) children and that the dog care center would like to have up to forty-five (45) dogs. Mr. Buttrick stated that the septic system is located in the front, under the parking lot, that he checked the plan online from the DES (Department of Environmental Services) and that there are no problems.

Ms. Knee recapped the information from the Staff Report and noted that a copy of the State of NH license for the children daycare was attached. There are two separate but related issues before the Board: (1) a determination whether the Change of Use from a residential use of the unit to a commercial use for a dog daycare center rises to the level of requiring a Site Plan Review; and (2) a Conditional Use Permit (CUP) application for the dog care center. Ms. Knee stated that the Zoning Ordinance (ZO) defines a dog care center as a kennel and requires a CUP. The State's definition of a kennel, per Ms. Maia, includes breeding and selling and because this operation will not be breeding or selling dogs, a State license is not required.

Mr. Ogni asked if there were any questions before opening the meeting to a Public Hearing. Mr. Buttrick asked if he should be recusing himself. Mr. Ogni asked Mr. Buttrick if he had any monetary investment or interest as that would be a reason to recuse himself. Mr. Buttrick responded that he had no money interest or investment in either application. Mr. Buttrick did not recuse himself. No Board Members objected.

Mr. Ogni opened the Public Hearing at 7:07 PM. No one addressed the Board. Mr. Ogni closed the Public Hearing at 7:08 PM.

Board reviewed the criteria for determining Change of Use and made the following determinations:

- a. It will not have any impact beyond the boundaries of the site;
- b. It will not result in increased parking and circulation requirements that cannot be satisfied by the present site;
- c. It will not result in increased traffic hazards either on-site or off-site;
 - Mr. Buttrick noted that there is a third lane to the entrance of the driveway
- d. It will not create an unreasonable nuisance to the neighborhood or abutters;
 - Noise was discussed. Ms. Maia stated that the dogs will be supervised when outdoors, that they will be kept inside after 6:30 PM, only going out for a short bathroom break, and added that noise/barking is usually controlled with the use of water spray bottles.
- e. It will not result in additional drainage beyond the site or adversely affect groundwater resources;
 - Mr. McCormack questioned the runoff from the turf wash. It was noted that the land rises behind the site, that runoff would be downhill toward NH Route 106, that a wetland exists across the road and that dog urine would be diluted during the wash with biodegradable non-toxic agent.

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- f. The change or intensification of use can be adequately protected with existing firefighting resources; and
- g. The present and proposed use of the site is otherwise lawful.

Motion made by Mr. Weston, seconded by Mr. Buttrick and unanimously voted to determine that the Change of Use as presented does not rise to the level requiring Site Plan Review.

Board reviewed the criteria for the granting of a Conditional Use Permit and made the determination that each has been met/satisfied.

- Conditional Use Permit criteria:
 1. The proposed use is consistent with the adopted Master Plan
 2. The specific site is in an appropriate location and of adequate size for the use.
 - Site is in the Business Zone
 3. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located
 4. There will be no nuisance or serious hazard to vehicles or pedestrians
 - Noise and mitigation measures discussed
 - Dogs will be contained outdoors in a 30’x40’ fenced in play area, previously established for/by the child daycare business, and not allowed to roam free to interfere with vehicle or pedestrian traffic.
 - Existing fence is only 4’ high. Ms. Maia wants to replace it with an 8’ tall stockade fence. Ms. Maia was advised to check with Building Department regarding need for a Building Permit
 5. The use will not place excessive or undue burden on Town services and facilities
 6. There would be no significant effect resulting from such use upon the public health, safety and general welfare of the neighborhood in which the use would be located.

Motion made by Mr. Martindale, seconded by Mr. McWhinnie and unanimously voted to approve CUP Application #601-2016 as presented.

II. CONCEPTUAL CONSULTATION

1. **Application #501-2016 Minor Subdivision** submitted by Michael Wilson to create a five-acre lot from the 27 acres of Lot 020 in Map 416 located at 1955 NH Route 140 and currently owned by Dorothea Harmon
2. **Application #402-2016 Site Plan Review** submitted by Michael Wilson to construct a 5,000 SF building that will be combined Commercial and Residential with three garage bays and retail space on lower level and 4 apartments on the second floor on the new lot created at 1955 NH Rte 140, Map 416, Lot 020-001(?) located at 1955 NH Route 140 and currently owned by Dorothea Harmon

Mr. Ogni read both items into the record. Applicant Michael Wilson and his attorney Derek Durbin had not yet arrived. Property Owner Dorothea Harmon was present. Ms. Knee provided an overview of the Applications and the reason for the Conceptual Consultation.

The site is a twenty-seven (27) acre parcel with four hundred ninety four feet (494') of frontage in the Rural Zone that has one residence on the left side close to the property line and an existing contractor yard in the front right side of the lot. The catalyst for the project is to protect the equipment currently stored outdoors and remove the business from the home. In addition to creating bays for storing equipment and space for an office, Mike Wilson, resident and business owner of MJW Drywall & Foam Insulation, LLC, would also like to establish an outdoor sporting goods store (fishing, archery and firearms) on the first floor and four (4) apartments on the second floor of a proposed 5,000 SF building with dimensions of 50'x100'.

A brief overview of the proposed floor plan was provided. Mr. Durbin confirmed that ADA (American Disabilities Act) requirements do not apply to multi-family dwellings of four units or less. Mr. Wilson explained that his Federal License allows him to assemble custom firearms and that he does not anticipate large inventory for the retail business.

The Zoning Ordinance (ZO) only allows one stand-alone residence per lot and is relatively silent on 'mixed-use'. The addition of the apartments would require a separate lot. One question is the amount of acreage required to accommodate both a business and the residential apartment use. The ZO requires one additional acre per residential unit on a conforming lot that has one residence. From a residential point of view, that would be a total of five acres, two acres for the first unit and one acre for each of the other three units.

Discussion arose initially on whether the minimum acreage should be five or seven acres and branched to Site Plan requirements that included number of parking spaces, drainage, septic, well radius, wetlands and whether the building would need to have a sprinkler system which would require a cistern. Ms. Knee reported that the Fire Chief and Building Inspector each reviewed the building plan and each require more specifics regarding the uses within the structure in order to determine a business classification use group that would then determine specific Building Code and Fire Code requirements. As an example, if mechanic/engine work is performed in the bays, then there may need to be a vapor barrier installed in the ceiling and between the office and retail section and an exhaust system installed. Mr. Wilson stated that there will be only minor equipment maintenance performed, like oil changes. Other examples were cited and the need for specificity was reinforced along with the need to be compliant with State and Town regulations.

General consensus: For Subdivision, a minimum of five (5) acres would be required to accommodate the apartments. It was noted that more land may be needed to accommodate the Site Plan Review requirements on site. For Site Plan Review, it is okay to present mixed uses.

- 3. Application #502-2016 Minor Subdivision** submitted Charles Umanita to divide a 20-acre parcel into 2 lots at 293 Crystal Lake Road, Map 111 Lot 003 currently owned by Charles & Rose Umanita

Mr. Ogni read the request into the record. Ms. Knee stated that the site is a 20-acre parcel with 508' frontage on Crystal Lake Road and beach rights to Crystal Lake with one house on it toward the north property line, a significant wetland toward the south in the front and steep slopes to the rear. Charles Umanita introduced himself, stated that the land has been in his family since 1957, that they desire to divide it in two for his brother and him, that his brother would keep the existing residence and he would build his on the new parcel. Mr. Umanita stated

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that to avoid the wetlands and meet the 200' frontage requirement, a straight line down the middle is not possible but the division is possible with an odd configuration in the front quarter of the lot, leaving the back of the lot divided in half. Mr. Umanita noted that plan provided has the 200' of frontage with a switch back to the existing house that would leave a buildable envelope for him to build his house in the front and satisfy the wetland and property line setbacks. Mr. Umanita stated that since he submitted this plan, he has worked up another possible option and showed it to the Board. Copies were not provided.

Board discussion ensued and included: a review of the Subdivision Regulations, specifically Section VII.A.2 that pertains to irregular shape lots and Section VII.A.5 regarding the 4:1 ratio between depth and frontage; the percentage of wetland fill required; whether it is better to grant an irregular shaped lot than impact wetland; and whether the Board would be setting precedent. In response to the amount of wetland fill that would be required, Mr. Umanita stated that, in his estimation, it would be approximately 12%. Mr. Umanita Sr. added that the wetland has come into existence since he owned the property and that, in his opinion, is due to the culvert that was cut off and still visible by the roadside. With regard to setting precedent, Mr. Ogni noted that each case is unique and that in this particular case it would be to avoid wetland impact. Suggestion made to have the new lot configured with as few angles as possible.

III. UPCOMING BUSINESS

- Lot Line Adjustment between Map 421 Lots #1 and #1-1 on Allens Mill Road by Bryan Bailey for Wayne & Melanie Burgess

Mr. Ogni read the item into the record. Ms. Knee stated that Wayne & Melanie Burgess own the first three lots fronting on Allens Mill Road abutting Lucky 7 Holdings that were created by Subdivision in 2014. Lot #1-2 is scheduled for closing on 6/15/2016. Lot #1-1 has a potential buyer but before selling, Mr. & Mrs. Burgess want to have the existing stonewall become part of their residential lot. A two-acre pie-shape section of land would be removed from Lot #1-1, reducing its size to approximately five acres, and added to Lot #1, increasing its size to approximately sixteen acres. Bryan Bailey, LLS, is preparing the survey for the proposed Lot Line Adjustment for Mr. & Mrs. Burgess. The plan is to be before the Board at the July meeting.

- Used car dealership at 136 Route 106

Mr. Ogni read the item into the record. Ms. Knee stated that she received a call from Gary Anderson who is interested in relocating his business to Gilmanton. Mr. Anderson has initiated discussion with property owner, Sue Welch. At this point in time, Mr. Anderson doesn't know if he will buy the building or rent office space inside and display area outside but wanted to check with the Town on what would be required for him to relocate and operate his business and divide the inside of the building into the three units it was approved for initially.

After a brief discussion, the consensus was that, at minimum, Mr. Anderson should apply for a Change of Use and provide specifics that should include number of vehicles to be on display, outside and inside, signs, activity/work to be performed inside etc. Any construction would require a Building Permit

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IV. OTHER BUSINESS

1. Voluntary Lot Merger processed for Map 419 Lots 063 + 064 located on Province Road and owned by Lawrence Stanford

Mr. Ogni read the item into the record. Ms. Knee stated that the request was received, processed and recorded at the Registry n the last month.

2. Rules of Procedure – update

Mr. Ogni read the item into the record. Ms. Knee reported that the changes that were approved through April were incorporated into the document and the changes made at the May meeting have been added in track-change mode for easy identification. Board reviewed and applied additional edits. Discussion arose on the requirements to affect the changes, whether it has to be a noticed public hearing. Consensus was that appearing on the Agenda for three consecutive months and posted in three locations in Town is sufficient public notice.

3. Capital Improvement Plan (CIP) - update

Not addressed.

4. Public Input – Brenda Currier

Brenda Currier addressed the Board, actually read a one-page letter she had written questioning the legality of the Gilmanton Winery business operating in Town and the Town Administrator's letter to the State Liquor Commission. Having made the request under the Right-to-Know ruling per RSA 91-A, Ms. Currier was provided and completed the Town's Request For Information Form. General discussion arose. Mr. Martindale and Mr. Weston stated that they have recollection of Mr. Bishop being before the Planning Board and that there was something regarding parking and tour buses and walking path. Ms. Knee was asked to address the RTK request and provide an update to the Board at the next meeting.

5. The Corner Slice - update

Roy Buttrick stated that he has been helping the owner, doing research for the septic plan and documenting the existing system in an effort to satisfy the State of NH and allow them to issue the needed permit so The Corner Slice can open for business.

V. MINUTES: 05/12/2016

Mr. Ogni read the item into the record. Board reviewed the edited version presented. Motion made by Mr. Buttrick, seconded by Mr. Martindale and unanimously voted to approve the 5/12/2016 Minutes as edited and presented.

VI. CORRESPONDENCE:

- Lakes Region Planning Commission 48th Annual meeting Monday 6/27/16
Noted.

Motion made by Mr. Buttrick, seconded by Mr. Martindale and unanimously voted to adjourn the meeting. The 6/9/2016 Planning Board meeting adjourned at 9:10 PM.

Respectfully submitted,
Louise Knee, Planning Administrator

Attested by: _____
Wayne Ogni, Chairman