**MINUTES**

**GILFORD PLANNING BOARD**

**MONDAY**

**MARCH 15, 2021**

 **CONFERENCE ROOM A**

**7:00 P.M.**

The Gilford Planning Board met on Monday, March 15, 2021, at 7:00 p.m. in Conference Room A of the Gilford Town Hall, and via telephone conference call under emergency order provisions related to the COVID-19 pandemic.

Chair Wayne Hall welcomed everyone, led the Pledge of Allegiance, and read the rules of procedure for the meeting.

Planning Board Members present in Conference Room A were Chair Wayne Hall, Secretary Richard Vaillancourt, Selectmen’s Representative Chan Eddy, Regular Members Jack Landow and William Johnson, and Alternate Member Gaye Fedorchak.

Planning Board Members present on the telephone conference call were Vice-Chair Carolyn Scattergood, Regular Member Isaac Howe, and Alternate Member Emily Drake.

Planning Board Member absent was Alternate Member Rick Notkin.

Also present in Conference Room A was John Ayer, Director of Planning and Land Use, and Sandra Hart, Technical Assistant.

**1. PUBLIC HEARINGS**

W. Hall introduced the first application.

**1.1 Stones Throw Realty, LLC** – Applicant proposes to remove the existing restaurant structure and build a new 5,200 square foot restaurant building with a porch and an open deck for dining to be located over the porch, to repair and pave the parking lot, and to make other related site improvements on property located at 40 Weirs Road on Tax Map & Lot #223-539.000 in the Resort Commercial (RC) Zone, Aquifer Protection District, Island and Shore Frontage District, and Airport District. Site Plan Review. Application #2020000552. *Tabled from the January 27, 2021.*

Motion made by C. Eddy, seconded by J. Landow, to take the application off the table. Motion carried with all in favor.

J. Ayer explained that Craig Bailey of Turning Point Land Surveyors and Planners, submitted another request to table the application to the April 19th meeting.

Motion made by C. Eddy, seconded by J. Landow, to table the application to the April 19, 2021 meeting. Motion carried with all in favor.

**1.2 Northeast Self Storage, Inc**. – Applicant proposes an expansion of the existing self-storage/ boat storage facility by constructing an additional two (2) self-storage/boat storage buildings at 184 Old Lakeshore Road, each building being approximately 12,000 square feet in area; by constructing a service road to access all phases of the site; and by making other site-related improvements on the properties located at 184 Old Lakeshore Road on Tax Map & Lot #225-014.000, and at 10 Gilford East Drive on Tax Map & Lot #214-050.000, in the Resort Commercial (RC) Zone, Commercial (C) Zone, Aquifer Protection District, and Airport District. Site Plan Review. Application #2020000640. *Tabled from the January 27, 2021.*

I. Howe recused himself from this application.

G. Fedorchak was asked to stand in for I. Howe as a voting member.

Motion made by C. Eddy, seconded by R. Vaillancourt, to take the application off the table. Motion carried with all in favor.

Presentation

Jon Rokeh of Rokeh Consulting, LLC, and Attorney John Cronin were present to discuss the application. J. Rokeh said that they were before the Board in January and were asked to come back with additional landscape and buffer details. He said they have done that and submitted information showing they additional plantings. He said they picked all evergreens that are decent height including dark American arborvitae, balsam fir, and white spruce, and he said that they would stagger these in with what was recently planted. J. Rokeh said it will create a block and will be a significant difference from what was previously proposed.

J. Rokeh said that they are still planning to paint the building near the road red with white doors. He said with the landscaping they are proposing it is likely that no one will see the buildings at all. He said they won’t have any lighting on the back sides of the buildings and that all lighting will be dark sky compliant. J. Rokeh said that they have submitted an Alteration of Terrain application to the state.

J. Landow said that this is a vast improvement over what was proposed before and it looks like some of these trees will be six feet tall. J. Rokeh said that they will be approximately six feet in height. J. Landow said that it will take a number of years for these to grow. He said going from six foot to eight foot tall trees it would take less time to achieve a taller buffer for not more money. J. Rokeh said it would cost much more. W. Johnson said that sometimes the bigger trees get shocked and won’t grow as fast as the smaller trees. He said he had considerable working experience with trees. R. Vaillancourt asked if these proposed new trees have been submitted to the Airport Authority for their input. J. Rokeh said that they are not in the flight path. R. Vaillancourt said that Arborvitae might get eaten by deer. C. Eddy suggested to J. Rokeh to get in touch with Marv Everson, Airport Manager, just in case he needs the form filled out for the FAA.

J. Ayer said that at one point he thought the white doors with the red building might get changed to red doors. He asked if that was still being considered. J. Rokeh said that they will keep it the same proposal of a red building and white doors and white trim.

Public Input

W. Hall asked if there were any members of the public who wished to speak.

Stephen Legro of 299 Gunstock Hill Road, said that planting six (6) foot trees may not be enough. He said it will not block his view of those buildings for 10 to 20 years, and added that the trees that were planted last year aren’t looking good. S. Legro said that at a previous meeting the attorney for the applicant referred to S. Legro’s comment that Gunstock Hill Road is designated a scenic road and said there was no special protection in the RSA’s for scenic roads. S. Legro said that Gunstock Hill Road is known as one of the most scenic roads in Gilford. S. Legro said in the Community Character Protection District and with the architectural design standards in Article 17 he didn’t see anywhere that a person is allowed to have two buildings jutting out as they are shown in this proposal. He said in his opinion the buildings will be an eyesore being that close to the road. He said that in Article 17 there is a provision requiring a steeper roof pitch. Also, they have been excavating over there which has caused the exposure of dirt, and because of the storms we’ve been having, this has blown a lot of dust in their direction.

Andrew Howe of 300 Gunstock Hill Road said that the buffer is supposed to extend down and around both residences as required by the Zoning Board of Adjustment. He also agreed with Dick Vaillancourt that arborvitae is not the best tree choice. He said he has to concede the buffer issue and the height of the buffer, but is hopeful the building will buffer some of the noise and the wind. He said that every time the wind blows they get dust storms up the hill. A. Howe said that they are required to use Article 17 with regard to the buildings. He said that these two buildings will be built a year apart and maybe the applicant should plant grass or something to stabilize the site.

C. Eddy referred to the Zoning Board of Adjustment’s requirement that the buffer area be around the residential homes, so this proposed buffer might not go far enough around. J. Landow said that “should” is a suggestion and “shall” is a mandate.

J. Rokeh said that the Board has to look at this project as a whole and what makes sense and what doesn’t. There is another application on the agenda that is on the same road and in the same zone with a metal building that is over 40,000 square feet.

With no further public input, W. Hall closed the public hearing. I. Howe returned to the Board.

**1.3 Dave Farley** – Applicant is proposing to construct a two (2) bedroom apartment/single-family residence in the existing commercial building where a retail showroom, repair shop, and business office are already located, and to make various site changes as shown on an as-built site plan on property located at 1985 Lake Shore Road on Tax Map & Lot #223-535.000, in the Resort Commercial (RC) Zone and Aquifer Protection District. Amended Site Plan Review. Application #2021000030. *Tabled from the February 8, 2021 meeting*.

Motion made by C. Eddy, seconded by J. Landow, to take the application off the table. Motion carried with all in favor.

Presentation

Applicant David Farley was present to discuss his application. He said that he was out of town when the Board scheduled a site visit. He understands that there were some issues with regard to drainage, trees, junk, etc. D. Farley said that there has been a lot of snow melting and it’s all coming onto his property. He said he would like to direct it to the corner of the lot between his property and East Coast Welding. At the last meeting there was an issue brought up about it, so he said he is thinking of having his drainage to go all the way down to the property pin. He said he has to have the plans drawn up for that. He said the other issue is that some of the materials they have on site they use for sales or they use to do certain repairs. He said that having a meeting on site would be a good idea. D. Farley said that when he met with J. Ayer they discussed parking, and the materials on site for sale and what they use with their business. He said he told J. Ayer he may possibly build a storage building in the future. D. Farley said that he is paying 70% more taxes than both of his abutters and he would like to get this apartment approved.

W. Hall said that we should set up the site visit.

Motion made by R. Vaillancourt, seconded by C. Eddy, to have a site visit on March 25, 2021 at 1:30 pm. Motion carried with all in favor.

## Public Input

W. Hall asked if there were any members of the public who wished to speak. Hearing none W. Hall closed the public hearing and introduced the next application.

**1.4 A to Z Fitness, LLC** – Applicant proposes to amend the site plan for the Gilford Hills Tennis and Fitness Club to add two (2) new outdoor U12 sized (210’ x 135’) soccer fields to the site. The proposal includes a request for a Conditional Use Permit, pursuant to Section 15.5.2 of the Gilford Zoning Ordinance, to allow excavation and/or filling within the 25 foot wetland buffer. The property is located at 314 Old Lake Shore Road on Tax Map & Lot #224-068.000 in the Resort Commercial (RC) Zone and Aquifer Protection District. Site Plan and Conditional Use Permit Review. Application #2021000083.

J. Ayer explained that there was an issue with the abutter’s notification in that not all of the legal abutters were included in the abutter list and so not all abutters received notice. The application would have to be re-noticed for the April 19, 2021 meeting. No action was required.

W. Hall introduced the next application.

**1.5 Robert Small, Trustee of the Small Family Rev. Trust** – Applicant is proposing to amend the Spinnaker Shores Condominium site plan to allow conversion of two (2) units, Unit 9 and Unit 10 (Tax Map & Lot #216-009.009 and #216-009.010), from seasonal usage/occupancy only to year-round usage/occupancy on property located at 289 Dockham Shore Road on Tax Map & Lot #216-009.000, in the Single Family Residential (SFR) Zone. Amended Site Plan Review. Application #2021000085.

J. Ayer stated that the application was complete and ready to be accepted. Motion made by C. Eddy, seconded by R. Vaillancourt, to accept the application as complete. Motion carried.

I. Howe recused himself from this application noting that the applicant is represented by Attorney Ethan Wood who is also I. Howe’s attorney.

## Presentation

Ethan Wood, Attorney with Nomandin, Cheney & O’Neil, PLLC, was present to discuss this application. Applicant Robert Small and his neighbor Marc Rines, owners of units 9 & 10 at Spinnaker Shores Condominium, were also present. E. Wood explained that they were proposing to convert two (2) seasonal nonconforming units to year-round use. He said they received a variance from Section 9.2.3 from the Zoning Board of Adjustment to allow this. E. Wood said they received input at the Site Study meeting to renumber the units to be more sequential and improve emergency response, but aside from that they don’t have any changes to make to the site. He said nothing will actually change on the ground; the only thing that will change is that two more units become used year-round. E. Wood noted that they will have to update the condo documents as well.

J. Ayer said that he hadn’t gotten together with Spinnaker Shores to discuss the renumbering, so he’ll let E. Wood know what the new numbering would be after discussing it with the Deputy Fire Chief. J. Ayer said another thing noted was that the Association may want to upgrade the 500 gallon propane tank shown on the plan to a 1,000 gallon propane tank or more. E. Wood said that was being discussed. J. Ayer said that the amended documents will also need to be reviewed by the Town Attorney.

C. Scattergood asked if this was a cottage colony turned condo, didn’t the original approval indicate that these units were not to become permanent residences? E. Wood said that when this was changed from cottage colony to condominium in 1982, the Site Plan approval permitted two (2) of the units to be used year-round at that time and the rest to be seasonal. He said this is a proposal for two (2) additional units to become year-round units. C. Scattergood said that there was a good reason for these restrictions back then. There was worry about overcrowding schools and burdening town services. E. Wood said that neither of these current unit owners has children and they aren’t in any rush to sell.

C. Eddy said that they did receive a variance from the Zoning Board of Adjustment, so as far as the Zoning Board goes they are okay with the units being used year-round.

J. Landow said that this will make four (4) year-round units and six (6) seasonal units. He said that he understands C. Scattergood and the concern about setting a precedent with regard to adding to town services and the schools. He said this particular condo may not be an issue, but maybe others would be where they have more units and children. C. Scattergood said that there are hundreds of these condos that were approved similarly and the town might be in trouble if they all become year-round in the future.

C. Eddy said that to him this is a case-by-case issue and the Planning Board will need to make sure that the Zoning Board knows what’s going on in the future. C. Scattergood said that she disagrees and that these were converted years ago with this condition for a reason. She said that the Town had a problem with allowing all of these units to go from seasonal to year-round then and she didn’t think that it would have changed from then to now. She said they were set up that way and done like that for a reason. Discussion ensued.

J. Landow asked if these units were on Town sewer. E. Wood said they are and on a private well.

W. Hall said that these were last updated in 1982 which E. Wood confirmed. W. Hall pointed out that the buildings were called summer dwellings at one time. E. Wood said that the buildings being converted were already made habitable for year-round use.

## Public Input

W. Hall asked if there were any members of the public who wished to speak.

Marc Rines, unit owner, said that these units have good foundations, but they are small units.

John Cronin said he is a Gilford taxpayer but lives in Manchester. He said that he knows of a couple of cases of some other cottages that were converted to condos and as long as they are in the same footprint it really wasn’t an issue.

W. Hall asked if there were any other members of the public wishing to speak. Hearing none, W. Hall closed the public hearing.

**2. ACTION ON ABOVE**

**1.2 Northeast Self Storage, Inc**.

I. Howe recused himself from this item.

C. Eddy said that he didn’t see that this has the buffer required in the Zoning Board of Adjustment approval. He also said, with regard to what A. Howe and S. Legro said, that the dust and wind issues haven’t been addressed.

J. Ayer said that if we do table this we ought to tell the applicant specifically what information the Board is looking for at the next meeting.

Motion made by C. Eddy, seconded by J. Landow, to table the application to the April 19, 2021 meeting so that the applicant can address the Zoning Board of Adjustment’s condition of approval regarding the buffer, as well as the applicant can address erosion of soil which has caused dust to blow across the road to abutting properties.

Discussion on the motion. C. Eddy said that we want to give J. Rokeh more direction, and I think he understands. J. Landow said that even with the original buildings the architecture and proximity to the residentially-zoned land probably wasn’t considered. C. Eddy noted that this is not a flat roof system. He said we have to make sure that it meets up with the architectural design suggestions of Section 17.2.2 for roof pitch.

Motion carried.

I. Howe returned to the Board.

**1.3 Dave Farley**

Motion made by C. Eddy, seconded by R. Vaillancourt, to table the application to the April 19, 2021 meeting. Motion carried.

**1.5 Robert Small, Trustee of the Small Family Rev. Trust**

Motion made by C. Eddy, seconded by W. Johnson, to approve the application subject to the following conditions:

a. The applicant shall renumber the units in the condominiums as directed by Town staff.

b. The applicant shall obtain any other federal, state or local approval that may be required.

c. The applicant shall submit the condo documents for review by town counsel.

Motion carried with C. Scattergood abstaining.

**3. OTHER BUSINESS**

# Harbor Freight Tools

J. Ayer said that a pillar was discovered in the front wall of the building where they were going to put the entry door, so they will have to move the door over about 18 inches which will be addressed with their building permit. He said the applicant wanted to make sure the Planning Board had no issues with that change. Board members said they saw no issues with the minor change.

Discussion – Conversion from Seasonal Units to Year-Round Units

The Board discussed potential impacts on the town if conversion of seasonally used condo units to year-round condo units continues, and what the Board should do regarding such conversion requests in the future. C. Scattergood said there was a good reason for such limitations when they were imposed which still need to be considered.

**4. MINUTES**

Motion made by C. Eddy, seconded by J. Landow, to approve the minutes of the January 25, 2021 meeting. Motion carried.​

Motion made by C. Eddy, seconded by R. Vaillancourt, to approve the minutes of the February 8, 2021 meeting. Motion carried with W. Johnson abstaining

**5. ADJOURNMENT**

Motion made by C. Eddy, seconded by R. Vaillancourt, to adjourn the meeting at 8:48 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary