**MINUTES**

**GILFORD PLANNING BOARD**

**MONDAY**

**MAY 17, 2021**

 **CONFERENCE ROOM A**

**7:00 P.M.**

The Gilford Planning Board met on Monday, May 17, 2021, at 7:00 p.m. in Conference Room A of the Gilford Town Hall, and via GoToMeeting video conference 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, Vice-Chair Carolyn Scattergood, Secretary Richard Vaillancourt, Regular Members Jack Landow and Isaac Howe, and Alternate Members Emily Drake, Gaye Fedorchak and Rick Notkin. Selectmen’s Representative Chan Eddy was present on GoToMeeting. Member absent was William Johnson.

Also present were John Ayer, Director of Planning and Land Use, and Sandra Hart, Technical Assistant.

W. Hall asked G. Fedorchak if she would take the place of W. Johnson as a voting member.

# PUBLIC HEARINGS

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**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 April 19, 2021 meeting.*

Motion made by C. Scattergood, seconded by R. Vaillancourt, to take the application of the table. Motion carried.

J. Ayer stated that Craig Bailey of Bryan Bailey & Associates was on GoToMeeting. C. Bailey asked the board to table the public hearing for two months. J. Ayer explained the current situation.

Motion made by C. Scattergood, seconded by R. Vaillancourt, to table the application to the July 19, 2021 meeting. Motion carried with all in favor.

**1.2 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. *Tabled from the May 3, 2021*

I. Howe recused himself and R. Notkin was appointed by W. Hall to sit as a voting member for this application.

Motion made by C. Scattergood, seconded by R. Notkin, to take the application of the table. Motion carried.

J. Ayer updated the board regarding the application. He explained that there was a recent site visit attended by a number of Planning Board members, two Conservation Commission members, the applicant’s engineer, and others. He said they were able to view where the playing fields would go, where the edge of the wetlands were located, and discuss many site concerns. He said many questions were answered as to the soil mapping and what was shown on the different plans.

He said Attorney Stephan Nix, who was representing an abutter, had submitted a lengthy email pointing out a few things that the board might want to be aware of. He referred to Article 15 of the Zoning Ordinance which refers to soil types as determining wetland boundaries. He said it may be outdated, but it is still a requirement or standard in the ordinance. J. Ayer read the section for everyone and went over the provisions for Special Exception and he went over the uses.

C. Scattergood asked if the board was going to see a plan that would show the correct wetland delineation. J. Ayer replied that the wetland map submitted with the application shows the current wetlands delineation but uses the state’s standards for that, not only the soil types. The Zoning Ordinance allows for soil types alone to define the boundary of the wetlands district. J. Landow asked if the state’s delineation would supersede our Zoning Ordinance. J. Ayer said it would for an application to the state, but it would not in this case for the Planning Board application. C Eddy stated that when it comes to our Zoning Ordinance and the State, ours could be more restrictive than the State’s.

J. Ayer referred to the section in the Zoning Ordinance that addresses incorrectly delineated wetlands. He said this may be something that could apply in this situation.

G. Fedorchak said she had a great conversation with Wetlands Scientist Cynthia Balcius on the site visit the other day and said the Town has the right to say that soils trump the wetlands.

G. Fedorchak said that if we go by the soil designation, didn’t it specifies that there shall be no fill on the property. Nevertheless, there is fill there now and she asked how

that further complicates the board’s decision.

J. Ayer said that a statement made during the site visit was that the former building inspector had allowed the large pile of gravel to be placed on site from a neighboring property. J. Ayer said he had a chance to speak with the former building inspector who said that he had ordered the neighbor to stop dumping gravel onto this site, but allowed them to leave what they had already put there for the time being.

G. Fedorchak said that she feels that the circumstances have changed with the points raised in this letter.

W. Hall said that many different things have been brought up and said the Board maybe should reopen the public hearing to allow the applicant to address the issues raised and for the Board to discuss them. J. Ayer said the application was tabled at the last meeting to allow for the site visit and what he expected to be a chance for further input by the applicant and public. He said if the Board considered the public hearing fully closed, it would need to be renoticed to have further input from the applicant and public. G. Fedorchak said maybe we need an up to date study on the soils. J. Ayer said C. Balcius submitted a wetlands map using the three criteria the state uses which includes soils. J. Ayer asked if the Board would like a legal opinion as to how to proceed. Discussion ensued as to re-noticing the hearing.

Motion

Motion made R. Notkin, seconded by G. Fedorchak, to re-notice the application for a public hearing to be held on June 21, 2021. Motion carried with all in favor.

**1.3 Governors Island Club, Inc.** – Applicant proposes a lot line adjustment transferring 1,880 square feet (0.043 acres) from Tax Map & Lot #217-037.000 at 103 Blueberry Hill Lane, to Tax Map & Lot #218-048.000 at approximately 275 Edgewater Drive, in the Single Family Residential Zone. Lot Line Adjustment Plan Review. Application #2021000235.

C. Scattergood stated that she is recusing herself from this application because she is an abutter, and also said that she did not yet receive a notice as an abutter. J. Ayer said staff had contacted the post office about the 30 or so notices that had been returned. The Postmaster said to give them to the mail carrier and he would have them all delivered.

J. Ayer said that the application was complete and ready to be accepted, subject to review of the waivers.

Motion made by J. Landow, seconded by G. Fedorchak, to accept the application as complete.

Motion carried with all in favor.

Presentation

Christopher Guida, Certified Wetland and Soil Scientist for Fieldstone Land Consultants, PLLC, was present to discuss the application. He explained where the two lots were and the location of the lot line adjustment. He went over the proposed 10 foot strip that will provide access from the Governor’s Island property to Blueberry Hill Lane. He said that they would be setting new pins to delineate this.

J. Ayer noted that at the Site Study meeting it had been suggested that they have the 10 foot strip clearly delineated or blazed to ensure that walkers and others using the trail keep on the narrow trail and off the private property. J. Ayer said the waivers are for checklist items 22, Contours, and 28, Natural and Cultural Features, which are minor issues with this application.

Public Input

W. Hall asked if there were any members of the public wishing to speak. Hearing none, he closed the public portion of the application and introduced the next application.

**1.4 Peter Grenier, Trustee of the Island Nation Realty Trust** – Applicant proposes a lot line adjustment transferring 7,783 square feet (0.179 acres) from Tax Map & Lot #217-072.002 at 115 Summit Avenue, to Tax Map & Lot #217-073.001 at 81 Summit Avenue, in the Single Family Residential Zone. Lot Line Adjustment Plan Review. Application #2021000236.

J. Ayer said that the application was complete and ready to be accepted subject to review of the waivers.

Motion made by I. Howe, seconded by G. Fedorchak, to accept the application as complete.

Motion carried with all in favor.

C. Scattergood and E. Drake recused themselves due to being stockholders at Governors Island.

Presentation

C. Guida represented this application as well. He explained that this application is similar to the first, the only difference is this strip will be 20 feet wide. This will allow keeping the lot in current use for tax purposes. He said that the Grenier property is on the tax map as one lot, but it was recently unmerged back into three lots. This adjustment is on the westernmost parcel of the three. He said there are no wetlands on the property. The proposal is for pedestrian access only, no proposed vehicle access.

J. Ayer said that they asked for waivers from checklist items 22, Contours, and 28, Natural and Cultural Features on this application as well. He said these would be minor items for these applications. J. Ayer said that it may be worth considering blazing the 20 foot wide trail on this application as well.

Public

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

# ACTION ON ABOVE

 **2.3 Governors Island Club, Inc.**

C. Scattergood and E. Drake recused themselves due to being stockholders at Governors Island.

Motion made by C. Eddy, seconded by I. Howe, to approve the application subject to the applicant obtaining any other federal, state, or local approval that may be required and waive the requirement for checklist items 22 and 28. Motion carried.

 **2.4 Peter Grenier, Trustee of the Island Nation Realty Trust**

Motion made by G. Fedorchak, seconded by R. Vaillancourt, to approve the application subject to the applicant obtaining any other federal, state, or local approvals that may be required and to grant the waivers for checklist items 22 and 28. Motion carried.

# OTHER BUSINESS:

1. Ashley Geddes, 32 Barefoot Place – Ashley Geddes stated that she recently purchased 32 Barefoot Place in Gilford and they would like to put in a modular home. She came in with a building permit application and was told that they didn’t meet the steep slopes ordinance requirement. She was told to come here to meet with the board and discuss the proposal informally and to later submit an application for a conditional use permit.

J. Ayer explained that this regulation requires a plan to be submitted and the Board to approve a conditional use permit. The proposal would need to show how the applicant will grade the property with stormwater controls and addressing other slope-related issues. He said the Board has spoken with other applicants before with regard to steep slopes, but has never had anyone apply for a conditional use permit on this. He said because this is somewhat of a new thing for the Board he wanted a little guidance and for the applicant to get the Board’s input like a concept plan review.

A. Geddes said that they have a septic design for the proposed house, which will be a modular on top of a garage. She said that they have a driveway permit from Public Works. She said the builder needs some type of approval for them to put in their order and so they will start building the house. She said a favorable review of this concept plan could be enough for that. A. Geddes said she would be filing her application this week with these plans that had been finished by her engineer.

C. Eddy interjected that he regrettably would have to leave the meeting and log off of GoToMeeting.

J. Ayer said that he does not like this requirement very much because it is a lot of hoops to go through for a homeowner, but he said this applicant seems to be going about it the right way.

J. Landow said he is not comfortable saying to these people to go ahead and order the house without them coming in with a formal application and getting formal approval. J. Ayer said that if it weren’t for this steep slopes ordinance they would have already gotten a building permit and ordered their house. J. Ayer said that Section 6.22 is where these requirements are found.

2. Possible Site Changes, 131 Lake Street – J. Ayer said that he had been contacted by an owner at the resort units at 131 Lake Street (Paugus Bay Plaza/One Gilford Place) who said the unit owners were interested in loaming and seeding a gravel area on the north side of the building and possibly putting picnic tables and grills out there. They wanted to know if they could go ahead and do that or would they need site plan approval. J. Ayer said he went to the site to view where they would like to do this. He said it seemed to be a bit close to the road, very visible at the front corner of the property, and close to the abutting lot and the town line. He thought that grassing it would not be an issue, but putting out picnic tables and grills should undergo site plan review. He said he was seeking the Board’s thoughts on the matter. J. Ayer said where it is close to the road and driveway it could put people, especially children, at risk.

C. Scattergood said that if we had any condominiums coming in to make a change we would make sure of the safety measures being met. G. Fedorchak thought that maybe they should add some sort of fence. C. Scattergood thought that it was great that they even asked for our opinion.

W. Hall said a thorough site plan review would be important to lessen the Town’s liability. Discussion ensued.

# MINUTES:

*April 19, 2021*

Motion made by C. Scattergood, seconded by R. Vaillancourt, to approve the minutes of the April 19, 2021 meeting. Motion carried with all in favor.

# ADJOURNMENT

Motion made by C. Scattergood, seconded by G. Fedorchak, to adjourn the meeting at 8:28 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary