**MINUTES**

**GILFORD PLANNING BOARD**

**MONDAY**

**MAY 3, 2021**

**CONFERENCE ROOM A**

**7:00 P.M.**

The Gilford Planning Board met on Monday, May 3, 2021, at 7:00 p.m. in Conference Room A of the Gilford Town Hall, and via telephone and 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; Selectmen’s Representative Chan Eddy; Regular Members Jack Landow, William Johnson and Isaac Howe; and Alternate Members Emily Drake and Gaye Fedorchak.

Planning Board Members absent were Secretary Richard Vaillancourt and Alternate Rick Notkin.

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

G. Fedorchak took the place of R. Vaillancourt as a voting member.

W. Hall explained that this meeting was reconvened from the April 19th meeting when the public hearings were held. He said the public hearing portion for the applications has been closed, so the Board will only be deliberating tonight.

# PUBLIC HEARINGS

As noted above, the public hearings were held previously.

**1.1 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 April 19, 2021 meeting.*

I. Howe recused himself from this application. E. Drake was asked to stand in for I. Howe.

Motion made by C. Scattergood, seconded by J. Landow, to take the application off the table.

Motion carried with all in favor.

**1.2 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 April 19, 2021 meeting*.

I. Howe rejoined the Board.

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

J. Ayer said that a letter was submitted requesting to withdraw the application.

Motion made to C. Eddy, seconded by I. Howe, to accept the request for withdrawal. Motion carried with all in favor.

**1.3 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. *(This item was not heard at the March 15, 2021 meeting due to a noticing issue.) Tabled from the April 19, 2021 meeting*.

I. Howe recused himself and E. Drake was asked to stand in for him.

Motion made by C. Eddy, seconded by W. Johnson, to take the application off the table. Motion carried.

**1.4 PEM Real Estate, LLC –** Applicant proposes to amend the original site plan approved on 9/21/20 to reconfigure and reduce the size of the proposed Storage/Warehouse Building from 9,630 square feet to 9,076 square feet, and to eliminate phased development of the site. No other changes to the original site design for roads, water, sewer, or stormwater drainage are proposed. Property is located at 351 Hounsell Avenue on Tax Map & Lot #204-003.007 in the Industrial (I) Zone, Aquifer District, and Business Park District. Amended Site Plan Review. Application #2021000155. *Tabled from the April 19, 2021 meeting*.

I. Howe rejoined the Board.

## Motion made by C. Eddy, seconded by C. Scattergood, to take the application off the table.

Motion carried with all in favor,

**1.5 Cellco Partnership d/b/a Verizon Wireless –** Applicant proposes to install an FCC Licensed, 150 foot tall Personal Wireless Service Facility (“PWSF”) radio tower (a monopole cell tower with antennas) and accessory ground equipment (includes a diesel back-up power generator) pursuant to the plans, statement, and supporting materials incorporated into and made part of the application, on property located at 1328 Cherry Valley Road on Tax Map & Lot #271-002.100 in the Limited Residential (LR) Zone, Natural Resource Residential (NRR) Zone, and Wetlands District. Site Plan Review. Application #2021000156. *Tabled from the April 19, 2021 meeting*.

J. Ayer reminded the Board that the applicant requested several waivers but in his view all they really need is a waiver from #26 because the other items either did not apply to this application or they had been addressed already on the plan. He said he spoke with the applicant regarding the wetlands scientist and surveyor stamping the plan and they were okay with not waving that. He stated that the Conservation Commission had a few concerns pertaining to the wetlands but they had all been resolved.

## Motion made by C. Eddy, seconded by C. Scattergood, to take the application off the table.

Motion carried with all in favor.

# ACTION ON ABOVE

**1.1 Northeast Self Storage, Inc**.

I. Howe recused himself from this application. E. Drake was asked to stand in for him.

J. Ayer said he received a note at the end of the April 19th meeting from J. Rokeh saying they would submit a bond for the landscaping if necessary. Also a plan/photo was submitted to show the evergreens that have been planted and four more were planted after the photo was taken. It’s not exactly what was proposed and some of the trees are not too impressive but most look healthy. He said it might be worthwhile to take a bond for this.

C. Scattergood said she realizes that any tree that’s newly planted has to be treated. She would be happy with a bond. G. Fedorchak would like to make sure that they are planted as proposed and shown on the plan. J. Landow asked what the reason is that the plantings aren’t all in. J. Ayer replied that the applicant was actually surprised to get the trees that they did get so quickly and so he put them in immediately.

C. Scattergood said it all depends on keeping them healthy for the first year. C. Eddy said that he didn’t recall them having to be impressive trees.

C. Scattergood asked about the bond. J. Ayer explained what it would be for landscaping, which he would work with the applicant on, and he would run it by town counsel and it would be a cash bond. W. Hall said that we will have to vote on what we want that way.

C. Eddy said that the Special Exception they received from the ZBA was conditional on the buffer being included along the two abutting residential homes. J. Landow stated that even if the abutters submit a letter saying they don’t want a buffer, those property owners can come and go so the Board should consider protecting a future property owner.

C. Eddy said that he would like to have an agreement from the ZBA, maybe have them submit something in writing, saying that they would be okay with this buffer planting proposal.

G. Fedorchak wanted to know about the roof pitch and if they needed anything for that. J. Ayer read from Section 17.2.2.1, Roofs, and noted that it says roofs “should… [have] a pitch of not less than 5:12” and not “shall… [have] a pitch of not less than 5:12”. He said that typically if it’s a requirement it would say “shall” and “should” would be merely a recommendation.

J. Landow discussed the section as well and said that it’s open to interpretation. He said because it’s in the Community Character Protection District that he is not satisfied with the effort made to comply.

C. Scattergood said if this building is going to be similar to the other buildings, the consistency of the design means something to her. C. Eddy said that it doesn’t really matter what the buildings down below look like, because this has to do with the two buildings on top. Discussion ensued.

J. Landow said that these buildings are allowed in this zone, which is the Community Character overlay. He also said that the Board was told that this is a scenic road. C. Eddy said that this is on a border between two zones, which he explained.

Motion made by C. Scattergood to accept the building elevations as submitted. There was no second.

D. Letendre said that the ZBA approved the plan before they doubled and tripled the number of trees, so now it’s even more trees than what they looked at or approved. C. Eddy said that we can’t approve this with the condition of the ZBA. W. Hall said that the ZBA has a condition addressing a buffer along the abutting lots, so we are stuck with the condition as to the buffer for the abutters.

D. Letendre said that he already has written consent from one of the abutters saying they do not want any more buffer plantings, and he got a verbal statement to that effect from the other abutter.

G. Fedorchak said that they revised the plan and added trees, but in looking at those two conditions she felt like the ZBA actually bumped it up to the Planning Board for approval of the buffer. C. Scattergood said we have one letter from an abutter, so we need a letter from the other abutter. She asked why can’t the Board grant this subject to those things being done and brought back to the Board?

J. Ayer said the bond should probably be based on everything that is proposed to be planted with the 10% contingency based on that figure, but the actual bond taken would cover only the remaining plants to be installed plus the full contingency amount. W. Johnson said that increasing the bond would cover the entire buffer, but waiting on the okay from the abutters and the ZBA just seems like an extra step that we could cut out.

D. Letendre said that they’ve doubled the number of trees. He said they think that the ZBA left determining the buffer to the Planning Board.

J. Ayer said that the bond would include the 10% contingency that would usually be held for a year to make sure the plantings survive.

D. Letendre said that they are making sure that the trees are getting watered because they spent a lot of money on the trees so they want to take care of them. D. Letendre said that they’ve already been delayed for 5 months.

J. Ayer said that the next ZBA meeting is on May 25, 2021 and the first Planning Board meeting after that is on June 7, 2021.

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

a. Prior to the chairman signing the site plan, the applicant shall update the site plan to include the revised landscaped buffer planting plan.

b. Neither building shall be rented, leased, occupied, or otherwise used for storage or any other purpose until after a Certificate of Occupancy for that specific building has been properly authorized in writing by the Director of Planning and Land Use.

c. An as-built site plan shall be reviewed and approved by the Planning Board prior to a Certificate of Occupancy being issued for either of the proposed buildings.

d. All of the plants shown as proposed to be planted in the landscaped buffer shall be planted prior to issuance of any certificate of occupancy for this property. Applicant shall post a performance bond to be determined by the applicant and approved by the Planning Director for maintenance and survival of those plants.

e. The plants in the landscaped buffer along Old Lake Shore Road and elsewhere as needed shall be properly maintained in a healthy condition using best management practices. Dead trees shall be replaced as soon as possible with comparable stock not less than six (6) feet in height as proposed on the plan.

f. Applicant shall submit to the Department of Planning and Land Use approval of the buffer plan from the abutters who own the abutting residential properties that are on Old Lake Shore Road and from the Zoning Board of Adjustment.

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

In favor were C. Scattergood, W. Johnson, G. Fedorchak, and E. Drake; opposed were C. Eddy and J. Landow. Motion carried.

**1.3 A to Z Fitness, LLC**

I. Howe remained recused for this item.

J. Ayer recapped the discussion at the April 19th meeting for everyone. He said that the applicant said that typically there isn’t a big demand for parking at this site, but he said a parking requirements table still needs to be shown on the plan. C. Scattergood said that there would be 11 people with vehicles per soccer team and it would be nice to have that on the plan. G. Fedorchak said that it would be for adult players only. C. Scattergood asked if who would be using the fields was clarified by the applicant and if it would be limited to practices only. G. Fedorchak would like to see in writing what they have for uses and how many people would be there at a certain time and how many parking spaces are required.

J. Landow asked if there was a plan showing the parking. C. Scattergood said that she counted 112 spaces, and noted that they won’t be using the fields in the winter.

G. Fedorchak would like some clarification with regard to the wetlands. J. Ayer said it would make sense to have the Conservation Commission weigh in on this with regard to the wetlands. The applicant is fixing what wetlands they filled in pursuant to an after-the-fact permit approved by the state.

J. Landow said that he felt that there was a discrepancy. G. Fedorchak said the water runoff concerns her as well, and she doesn’t have enough facts on it. W. Johnson said that a site visit might help.

J. Landow asked if the DPW Director’s concerns were addressed. J. Ayer said that her concerns haven’t been addressed. He said he confirmed this with Meghan Theriault.

C. Scattergood said that she would like to know how they will maintain the fields, what types of fertilizers they will use, etc. C. Eddy asked if that was something the Planning Board would address or is that something NH DES addresses. Discussion ensued.

J. Ayer said that we could call upon a third party engineer for review of the project at the expense of the applicant. G. Fedorchak said that it’s just one of those things that we need more information on.

J. Ayer pointed out the provision for shared parking.

Morgan Dunson of Nobis Engineering was on GoToMeeting and said that she could set up a date with the applicant for a Planning Board site visit and let J. Ayer know what would work.

Motion made by C. Eddy, seconded by W. Johnson, to have a site visit at Gilford Hills to be verified in the next few days for Thursday, May 13, 2021 at 3:00 pm, to include the Conservation Commission and the wetland scientist. Motion carried with all in favor. J. Ayer said he would work with M. Dunson to see if the May 13th option works and to schedule an alternative time if needed and advise Board members, the public, and others of that date and time.

Motion made by C. Eddy, seconded by E. Drake, to table the application to May 17, 2021. Motion carried with all in favor.

**1.4 PEM Real Estate, LLC**

I. Howe rejoined the Board.

Motion made by C. Eddy , seconded by C. Scattergood, to approve the application subject to the applicant obtaining any other federal, state, or local approval that may be required. Motion carried with all in favor.

**1.5 Cellco Partnership d/b/a Verizon Wireless**

The Board thanked the applicant for the detail and organization of his submittal.

J. Ayer reminded the Board about the waiver request.

Motion made by C. Scattergood, seconded by G. Fedorchak, to grant the waiver for checklist item #26. Motion carried with all in favor.

Motion made by C. Scattergood, seconded by I. Howe, to approve the application subject to:

1. The applicant shall provide the surveyor’s stamp and signature and the wetlands scientist’s stamp and signature on the final plans before the plans are signed by the Planning Board chairman.

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

Motion carried with all in favor.

# OTHER BUSINESS:

Discussion – Yacht Club Vista – Terry Blade, owner of a unit at Yacht Club Vista, was present for this discussion. She said she was interested in converting a few units from seasonal use to year-round use. She said she went through the files and all the paperwork at the Planning Office. She tried to get an idea as to why they were approved as seasonal units only in 1985. The record indicated that the Town was concerned mostly about too many kids being in the school system. She said a lot of unit owners are now retired or will soon be retired and they want to spend half their time here so being able to claim this as their primary residence would be important, but they can’t because it is seasonal only. She said that unit owners are older and do not generally have school children at home. She submitted a letter to the Board that suggests some possible wording changes to their condo documents.

Karen Sousa, also a unit owner at Yacht Club Vista, said that the plan is to go to an attorney and have them draft up new condo documents. She said they decided to speak to the Planning Board first and to later hire an attorney to draft new by-laws.

C. Scattergood said she remembers that having so many school children that the schools would be overwhelmed was one of the reasons for keeping this seasonal and she’s been on the Board a long time. Other reasons were demand for services such as by first responders, the library, and other town departments whose services would be needed more by full-time residents. A lot of cottage colonies were converted into condos with a limit on their use.

Discussion ensued.

Judy, another Yacht Club Vista owner, said she has owned a unit there since it was established. She said that people rent all year round. She said there are a couple of units that get rented year round. She is worried about being a year-round use, with regard to the well and other reasons. She said there was in issue with regard to someone renting out a unit to a family of 5. When their children were sent to the school, they found out and the family had to be evicted. She said there are 37 units. She doesn’t think that anybody wants that kind of situation to happen here. She said they were also thinking about charging additional fees to unit owners who rent out their unit to ensure that the renters are responsible.

J. Ayer said that chances are pretty good that if this is approved the Planning Board will see more conversions to year-round occupancy. He said it would be worthwhile to get a count of how many units might be candidates for conversion to year-round occupancy and consider what the impacts could be. J. Ayer asked how big the units are in terms of bedrooms or square feet. The unit owners said some are two bedroom units but some are only about 400 square feet.

They asked if they could do conversion of individual units or if the Board would prefer them to convert multiple units at once, noting that they will report that back to the Association. Discussion ensued. The reply was mixed but generally a single presentation of all the units they would like to convert was preferred.

J. Ayer summarized the discussion by advising the Yacht Club Vista unit owners that they have some support and some concerns from Planning Board members.

# MINUTES

*March 25, 2021 Site Visit minutes*

Motion made by C. Eddy, seconded by G. Fedorchak, to approve the minutes of the March 25, 2021 meeting. Motion carried with I. Howe abstaining.

*April 5, 2021*

Motion made by C. Eddy, seconded by G. Fedorchak, to approve the minutes of the April 5, 2021 meeting. Motion carried with J. Landow abstaining.

# ADJOURNMENT

Motion made by C. Scattergood, seconded by W. Johnson, to adjourn the meeting at 9:45 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary