

**GILFORD ZONING BOARD OF ADJUSTMENT  
MINUTES  
MAY 29, 2007  
CONFERENCE ROOM A  
7:00 P.M.**

The Gilford Zoning Board of Adjustment met in a regular session on Tuesday, May 29, 2007 at 7:00 p.m. in Conference Room A.

Present were: Chairman Andrew Howe, Vice-Chairman Don Chesebrough, Charles Boucher, Richard Foley, Pat LaBonte and Robert Dion.

Also present was John Ayer, Director of Planning & Use and Stephanie Verdile Philibotte, Administrative Assistant.

Chairman Howe led the Pledge of Allegiance and introduced board members and staff. He explained the ZBA has the right to adjourn the meeting at 10:00 p.m. and continue the meeting at another specified date and time.

Chairman Howe read a letter from Attorney Regina Nadeau requesting the Jolin application be tabled until the June 26, 2007 meeting.

Motion made by D. Chesebrough, seconded by R. Dion, to table the Joiln variance application #ZO7-12 until the June 26, 2007 meeting. Motion carried with all in favor.

A. Howe introduced the first case.

**Bo Realty, LLC-David Devoy**

Request for Rehearing regarding a decision made by the Gilford Zoning Board of Adjustment on March 27, 2007. Wherein the Board of Adjustment upheld a decision by the Planning Board to accept as complete the Cumberland Farms, Inc. application for a convenience store and fuel dispensing station and their interpretation of regulations regarding prohibited uses in the Aquifer Protection District. The property is located on Tax Map & Lot #201-015.000 at 1434 Lakeshore Road in the Commercial Zone and the Aquifer Protection Overlay District. File #ZO7-08.

D. Chesebrough spoke about the lack of new information contained in the rehearing request. He explained the ZBA would not re-open the public hearing based on the same facts submitted. He also said there was no legal error made in the previous decision; therefore the ZBA would not grant the re-hearing request.

Motion made by C. Boucher, seconded by D. Chesebrough, to deny the request for a rehearing because Bo Realty, LLC has not offered any new facts and has not made any additional legal arguments that the Gilford Zoning Board of Adjustment failed to consider at the previous hearing of March 27, 2007.

With no discussion on the motion, A. Howe called for the vote.

S. Verdile Philibotte polled the members.

R. Dion-Yes  
P. LaBonte-Yes  
C. Boucher-Yes  
D. Chesebrough-Yes

A. Howe abstained. Motion carried with all in favor.

A. Howe introduced the next case.

**Meadowbrook Farm, LLC**

Variance request pursuant to Article 8, Sections 8.2.1.5 (d) Offsite signs and 8.10.5.1 & 2 Front and Side Setbacks of the Gilford Zoning Ordinance to request erection of a sign within a town road right-of-way within the required setbacks located at Route 11B and Meadowbrook Lane in the Resort Commercial Zone. File #Z07-09.

S. Smith, representing the application on behalf of the Town of Gilford and Meadowbrook Farms, LLC, gave a brief presentation to the Board and explained the location of the proposed sign. He explained the sign will be 48 SF overall and include an electronic changeable copy sign that will be 30% of the overall sign area. He said there would be an internal diffuser panel within the Meadowbrook Farm section of the sign. The current sign is about 56 SF. He said they are requesting to locate the proposed sign in a location to better advertise Meadowbrook, assist the public for visibility and have a safer intersection for traffic and pedestrian access. He told the Board Sheldon Morgan, DPW Director, assisted in the location of the proposed sign to avoid the existing sewer line. He said part of the hardship is they cannot locate the sign in a location required by the ordinance due to the sewer line location, as the sign would impact access to the sewer line. He reviewed all the variance criteria as outlined in the formal application.

Captain Kevin Keenan, Gilford Police Department, spoke about the traffic issues that exist due to the poor location of the current sign, as it is not visible for vehicle traffic. He stressed it is important for the safety of the officers, vehicles and pedestrians to have a visible sign.

A. Howe asked if S. Smith could put the dimensions from the proposed location of the sign to the property lines and sewer line on a revised plan. S. Smith agreed.

The Board discussed the applicant is surrendering the previous variance for the location and size of the old sign and P. LaBonte has concerns over the height of the proposed sign in the proposed location.

A. Howe clarified the DPW does not want the sign located on the sewer line and if the applicant does not receive a variance they would have to move the sign back farther on the property,

essentially where it is now. He said having the sign in the current location appears not to be effective for public safety.

S. Smith said they are removing landscaping but they will be replacing it.

R. Dion asked what would be advertised on the changeable copy. S. Smith said the changeable copy sign would be only to announce upcoming events.

D. Chesebrough spoke about the other Route 11 sign associated with Meadowbrook that has to be removed due to the airport expansion; he wanted the applicant to know they are allowed one freestanding sign on the property. S. Smith confirmed the Route 11 sign has to be taken down as ordered by the FAA but it is not part of this application. If they have to relocate that sign they would have to come back to the ZBA with another application. S. Smith said he couldn't speak about any other application regarding a Meadowbrook sign in relation to the airport because he represents the Airport.

Discussion ensued about the type of lighting used for the changeable copy and S. Smith discussed diffuser panels would be used for a portion of the sign.

J. Ayer spoke about changeable copy begin allowed and referred to the sections 8.4.8 and 8.10.1.2 of the ordinance regarding sign design and illumination standards of the changeable copy sign.

RJ Harding, representing Meadowbrook, explained the top of the sign will have diffuser panels and the changeable copy will be the other electronic lighting.

D. Chesebrough referred to section 8.2.1.5. (a) of the ordinance that states "any sign type of application not specifically allowed by this ordinance". He spoke about that section of the ordinance relates to the electronic changeable copy sign Meadowbrook is proposing.

A. Howe opened up the hearing for public input.

Russ Dumais- Spoke about the traffic impact Meadowbrook has in the summer and in the spirit of public safety there needs to be a better way to direct people to the site and the proposed sign would help the public safely access Meadowbrook.

J. Ayer spoke about the Planning Board and the Conservation Commission recommending the proposed location of the sign and confirmed that safety issues would be alleviated in the new location.

With no other input from the public, A. Howe closed the public portion.

A. Howe introduced the next case.

**The Home Depot USA Inc./ James Irwin & Sons**

Special Exception request pursuant to Section 4.3.22 and Section 4.7.3 (v) to allow a retail store in the Industrial Zone on Gilford Tax Map & Lot

#201-030.000 located at 50 Blaisdell Ave. File #ZO7-10.

David Rayment, representing the applicant, explained the location of the site and how the applicant needs a special exception in order to proceed.

Nelson Cabral, representing Home Depot, reviewed how the proposed site is appropriate for the proposed use. He said the proposed location has favorable access due to the proximity of Route 3, Route 11, Route 11A and Route 106. He explained the 6.5-acre parcel located in Laconia will be used for parking and includes a wetland mitigation proposal. He reviewed the various other commercial uses that exist in the area and how this application is appropriate for the proposed location and zone.

Tom Armstrong, discussed potential impacts the Home Depot would have to the surrounding areas. He explained the zone already supports a mix of commercial and retail uses as well as high-end retail stores and more stores are planning to locate to the area. He said the application supports the Master Plans for Gilford and Laconia and supports the trend for increasing business and commercial growth in the area. He said they have determined the impacts would be neutral to positive in nature for the surrounding areas.

Art Scarnio, discussed traffic impacts and patterns. He explained they are proposing to widen Route 107, as right-of way- land is available to purchase, in order to install a left turn only lane, a through lane and a right turn only lane. He explained they are planning a dual left turn from Route 3 entering Route 107, a through lane and a right turn only lane. He said all of the proposed traffic lanes would include new signals and improve vehicular traffic patterns in the area. Home Depot will also provide a sidewalk for pedestrian safety and overall the project would provide a safer intersection for vehicle and pedestrian traffic.

Jennifer Viarengo, discussed adequate and appropriate utilities will be provided to the site. She explained the utility lines will be underground, with the water provided by the City of Laconia, sewer serviced by Gilford, Keyspan will provide natural gas, PSNH will provide electricity and phone services will be provided.

D. Rayment continued to discuss how the application is consistent with the spirit of the ordinance and the Master Plan.

A. Howe asked about the special exception criteria and how the project will not be injurious to the neighborhood because the project will add a lot of impervious surfaces and the area is surrounded by wetlands.

Jeff Cantera, Gove Environmental, said there are about 29,000 square feet of wetland impacts on site. He said the majority of the wetlands are located on the Laconia side of the project. He explained the condition of the surrounding wetlands, their rankings, functions and value. He said they plan on excavating the wetlands that are now infiltrated with sawdust and replace them with a scrub wetland. They plan to restore the stream to its original banking and restore stream banks in order to encourage wildlife to return and control the drainage off site. He explained they plan on using porous pavement on sections of the site to allow for filtration and recharge

with the storm water retention system located under the pavement.

J. Viarengo, spoke about the stormwater management system. She said the plan would address three components of drainage on the site. She said the first one is an underground treatment system to handle the roof runoff, second is swale system to take the runoff into the wetland and the third is the porous pavement proposed as it can treat and handle stormwater runoff and create filtration on site.

Howe opened up the hearing for public input.

R. Dumais, spoke about the size of the project changing the character of the community. He said the box stores do not become part of the local community and he has concerns about the character of Gilford being negatively impacted. He spoke about several other Home Depot stores already established in the area and one Home Depot 8 miles away. He thinks it is poor planning to locate another large box store in Gilford and has concerns about the economy being able to support Lowe's and Home Depot and the traffic will be a nuisance. He has concerns about the future of the town if the stores are not successful, what will happen to the vacant buildings. He said the Home Depot representatives do not live in the area and believes the local community will be left with problems once Home Depot representatives leave the Town of Gilford.

Joanne McNulty, resident, supports the Home Depot and believes it will benefit the area with jobs. She is confident the local businesses will survive if the box stores are not successful. She is supportive of the porous pavement proposed, but hopes it does not wash out the parking lot making runoff issues worse. Overall she is supportive of the store locating in Gilford.

Jeanette Richardson, abutter, spoke about the runoff and damage from the Lowe's project recently and she is requesting businesses in that area be accountable for runoff from their sites. She spoke about a sidewalk that Laconia installed and noted that pedestrians use the sidewalk frequently that runs along Black Brook.

A. Howe asked J. Ayer if the Planning Department can assist with runoff issues associated with the new development of Lowe's and Home Depot. J. Ayer spoke about the professional personnel that were involved in the construction of Lowe's. He spoke about the on-site inspection the Town of Gilford completed in association with the NHDES. He said the Town of Gilford would work closely with the NHDES throughout the project.

J. Cantera, Gove Environmental, said the applicants are aware of the environmental issues surrounding Black Brook and previous runoff issues and they are working to prevent serious issues before they occur. He explained there would be environmental personnel on site every day through out construction to monitor the site. He said they have worked with Dr. Roseen from the UNH Stormwater Management Program and other professionals that will design the site to reduce the siltation and runoff to the environment and protect the wetlands.

C. Boucher asked about specifics of the proposed porous hardtop and if it would be damaged by winter conditions. J. Cantera said the parking lot is maintained daily and the water will infiltrate

quick enough so that freezing would not affect the pavement.

P. LaBonte wants to know if the applicant will clean the streams out and maintain them because of siltation collecting over the years. He said that is what impacts the runoff and flooding issues that have occurred. J. Cantera said he is not familiar with that issue but the NHDES may include maintenance with this project. He said he is looking forward to showing the local communities how their proposed mitigation, stormwater retention and runoff designs and plans will reduce impacts to the environment.

A. Howe read a letter into the record from Claire Clark, an abutter, who opposes the project.

A. Howe closed public hearing.

A. Howe introduced the next case.

**The Home Depot USA Inc./ James Irwin & Sons**

Variance request pursuant to Section 7.5.3.22, Retail Store Parking requirements, of the Gilford Zoning Ordinance, to reduce the number of parking spaces required from 681 to 381 parking spaces for property located on Tax Map & Lot #201-030.000 located at 50 Blaisdell Ave in the Industrial Zone. File #ZO7-11.

David Rayment, representing the application, discussed why the applicant is seeking an area variance and how the application can meet the requirements as outlined in the formal application. He discussed one advantage to granting the variance to reduce the parking spaces is to reduce impervious surfaces in the area.

J. Viarengo, explained by reducing the number of parking spaces they can reduce the impervious areas and the need for additional stormwater runoff, detention and filtration. Also by reducing the parking they are reducing congestion for the traffic to the site meaning the layout and design is beneficial for reducing impacts to the environment.

A. Scarnio, traffic engineer- said they did parking counts over the Memorial Day Weekend and discovered at the peak parking at Lowe's only used 180 spaces. They believe by reducing the parking requirements they are benefiting the environment.

P. LaBonte asked if Home Depot plans on building another business in the parking lot. D. Rayment said no and they would accept that as a condition of approval that no further development would take place on site. A. Howe asked if the applicant would be acceptable to a condition that would prevent any further expansion of the building and D. Rayment said they would be acceptable to that as a condition of approval.

J. Viarengo, explained how terrain also impacts the need for a variance as they would have to disturb more wetlands and they would have to install larger retaining wall. A. Howe asked to be shown how much more impact on the wetlands if they installed all the parking. J. Viarengo showed the Board on the site plan how much more wetlands would be impacted and it would be a financial hardship to install a parking garage. She also explained the stream located behind

the proposed store is higher than the proposed building.

A. Howe asked if staff has reviewed any parking issues that may have arisen because of Lowe's and can J. Ayer apply anything from the Lowe's project to the Home Depot. J. Ayer discussed surrounding businesses frequently have empty spaces even on the busiest days and spoke about Lowe's had to include parking for Hannaford supermarket expansion and still there are empty spots.

A. Howe is concerned about limiting the parking to the commercial areas, especially during the holiday season and how would this variance affect the availability of parking.

Jim Winn, Project Manager, representing the applicant, responded and discussed the parking situations during the Memorial Day Holiday and they are convinced they number of proposed spaces begin 2.96 spaces per square footage of the entire building versus 2.51 spaces for the busiest store in Salem. He also explained that the employee parking is included in the proposed numbers.

The Board discussed the future growth of the area and if the business now would be able to support the future parking needs and the fact that due to Lowe's and other existing businesses the parking requirements would not increase.

A. Howe asked the applicant if they would be acceptable to a condition of approval that would require that the parking spaces remain for parking only and they said yes.

A. Howe opened up the hearing for public input, there being none he closed the public hearing.

A. Howe introduced the next case.

**Michael McGinley**

Special Exception request pursuant to Sections 4.3.22 and 4.7.3 (v), Retail Store, of the Gilford Zoning Ordinance to construct a retail store on Gilford Tax Map & Lot #210-010.002 located at 22 Sawmill Rd. in the Professional Commercial Zone. File # ZO7-13.

Michael McGinley, representing the application, gave a brief presentation to the Board. He explained the request and said he has several retail businesses requesting to locate to his site. He is proposing to locate a full service Post Office on Lot #2 of the subdivision and he discussed pad sites #2, #3, #4 and said there may be up to 5 buildings at one time on lot #2. He explained the site is a commercial cluster but in order for a retail store to be located in the Professional Commercial Zone, it requires a special exception approval. He does not want to compete exclusively with other professional uses in the zone and would like to see retail stores being located in the Professional Commercial zone. He is asking the Board to award him a special exception approval overall for the entire site for retail use on site without every potential retail business having to go through the special exception process.

A. Howe asked if the current application has been through the site plan process and J. Ayer said

no. M. McGinley explained they would go through the Planning Board process after they get the use approved.

A. Howe asked if M. McGinley would be acceptable to conditions of approval subject to the applicant meeting all applicable zoning requirements throughout the planning process and input from J. Ayer and the Planning Department.

Discussion ensued about the applicant going through the Site Review process and adequate facilities begin addressed at that time.

D. Chesebrough spoke about the Board not begin able to approve blanket retail uses without a specific retail use presented to the Board. He discussed the specifications of the zone and the retail uses should not be intensive uses, as they would not meet the requirements and intent of the Professional Commercial zone.

J. Ayer spoke about the possibility of approving all retail uses on one site but the ZBA has to consider the intent of the ordinance and the zone for which the uses are proposed as well as meeting the parking requirements. A. Howe spoke about the intent of the Professional Commercial zone and he has concerns about approving all sites as retail as that would not meet the requirements and intent of the zone.

M. McGinley discussed the Professional Commercial zone currently has plenty of professional uses and small retail uses exist, he said it is a nice mix of uses for the area. He spoke about other uses approved over the years in the Professional Commercial zone, including senior housing.

A. Howe is concerned the entire site will become retail and believes that is not the intent of the zone.

J. Ayer spoke about the Professional Commercial zone and how it limits what size a retail store can be located there and that a total of 5000 SF.

D. Chesebrough told M. McGinley there is not enough information on the plans in order for them to approve a blanket request for the retail use.

A. Howe opened up the hearing for public input, being none he closed the public hearing.

The Board discussed the plans submitted by M. McGinley do not provide enough information for the Board to decide on the application.

D. Chesebrough is concerned the intent of the zone will not be met if the entire site turns into retail use.

J. Ayer suggested the Board designate what units can be retail. M. McGinley does not want to do that because it is too limiting as to where and what types of businesses can locate on the site.

Motion made by D. Chesebrough, seconded by C. Boucher to table the Michael McGinley application until the June 26, 2007 meeting. Motion carried with all in favor. A. Howe abstained.

Due to the time constraints, the Board discussed tabling deliberations on the applications. Motion made by D. Chesebrough, seconded by C. Boucher the Board to table deliberations on the following applications until Monday June 4, 2007 at 7 p.m.

1. **Meadowbrook Farm, LLC**
2. **The Home Depot USA Inc./ James Irwin & Sons, Special Exception**
3. **The Home Depot USA Inc./ James Irwin & Sons, Variance request**

### **APPROVAL OF APRIL 24, 2007 MINUTES**

Motion made by D. Chesebrough, seconded by R. Dion, to approve the minutes from April 24, 2007 as presented. Motion carried with all in favor.

### 3. **ADJOURNMENT**

Motion made by R. Dion, seconded by C. Boucher to adjourn the May 29, 2007 Zoning Board of Adjustment meeting at 10:38 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte  
Administrative Assistant