

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
AUGUST 26, 2008
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, August 26, 2008 at 7:00 p.m. in Conference Room A.

Present were: Chairman- Andrew Howe, Vice-Chairman- Don Chesebrough, Regular Member- Pat LaBonte and Alternate Scott Davis. A. Howe appointed Scott Davis to replace absent regular member C. Boucher.

Absent: Regular members Charles Boucher and Robert Dion.

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

Chairman, Howe led the Pledge of Allegiance and introduced Board members and staff and introduced Town Administrator, Scott Dunn.

A. Howe explained the process of having a four (4) member Board in attendance and the decision has to be unanimous. He offered the applicants to either move forward with the application or be tabled to next meeting.

A. Howe introduced the first case.

S. Smith explained that sitting member S. Davis has been employed by Steve Smith & Associates in the past and left it up to S. Davis to decide either to sit or recuse himself from acting upon the application. S. Davis explained he was a consultant hired by S. Smith & Associates for a different application and he explained he has no information or knowledge on the application in front of them.

Ann Davis Snow-Lily Pond Rd.-asked if S. Smith is the owner of the property, S. Smith explained he is representing the application.

172 Lily Pond Rd., LLC

Special Exception request pursuant to Article 4, Section 4.3.20 and 4.7.3 (t), to allow a Motorcycle Sales lot with a showroom and café on Tax Map & Lot #215-002.000.~ The property is located at 172 Lily Pond Road in the Industrial Zone.~ File #Z08-16.

Steve Smith, representing the application, explained an issue that developed with the abutters. He said Dunbar Drive is not shown on the Town of Gilford tax maps. He said the tax maps were incorrect and one abutter has not been noticed. He submitted a letter from the abutter,

Hayden McLaughlin, waiving his rights as an abutter. S. Smith said he reviewed the application with H. McLaughlin and that H. McLaughlin is aware of the contents of the application.

S. Smith continued with a brief presentation to the Board explaining the proposal. He outlined the application as it meets the special exception criteria for the proposed motorcycle sales room and café as two uses proposed for the site.

A. Howe asked about the existing gravel area and S. Smith said it is an area that was previously used to store vehicles and they will have to expand it to meet parking requirements. A. Howe also asked about an area that is labeled as outdoor display and what the intended use is for that and S. Smith said he understands it will be returned to a grass area and will be addressed through the site plan process through the Planning Board.

S. Davis asked about Dunbar Drive and its status. S. Smith said that he met with DPW and confirmed it is a town road and access will not be limited.

The Board asked about the area in front and if it will be a grassed area and S. Smith said he believes the area will be grassed.

The Board asked about a few signs that were shown in the state right-of-way and S. Smith said one sign is for an abutting business and they discussed the other notation on the plan labeled "MB" could be a mail box location.

A. Howe opened the hearing for public input.

Ann Davis Snow lives at 340 Lily Pond Rd.-She is concerned any motorcycle sales shop locating on Lily Pond Rd. They are very concerned about traffic, speed limits and the number of motorcycles on the road. She said she is concerned about the value of their property decreasing. She is also concerned about future sales for vehicles if this business does not last. She is concerned about the definition of a café turning into a bar/restaurant. She said they have to live with the existing exotic dancing club in their neighborhood and the noise and traffic from that use are very disturbing to the neighborhood. She said the Gilford police cannot control the noise and speed and traffic of the motorcycles that exist already and does not want to add more motorcycles to Lily Pond Rd.

A. Howe asked about the café use and if they plan on serving alcohol. S. Smith said the proposed use of the café is only for twelve seats and said they are not applying for a bar/restaurant they are applying for a café. A. Howe asked if they applicant would accept a condition of approval limiting them to not serve alcohol. S. Smith said that is up to the Board.

Roger Snow-340 Lily Pond Rd. Is concerned the proposed uses do not fit the Industrial Zone and also once this use is approved the door would be opened for other vehicle sales businesses to locate on Lily Pond Rd. He said the existing business operate until 6:00 p.m. and had concerns this business would be open later into the evening. He has concerns about the test drives for the motorcycles adding to the noise and traffic in the neighborhood. He said the zoning laws

Anita Chassie, 320 Lily Pond Rd.- She said she understands they cannot stop traffic but they do not want to encourage more motorcycle traffic to the area. She has witnessed accidents on the road and even damage to her property from accidents.

Mary Carter-Weirs Rd. Spoke about traffic problems and said they have a hard time safely entering their property and the noise is disruptive to them at night.

Barry Dame, 60 Kimball Lane, owns the property between the Snows and the subject property. He is against the café use.

Bill Carr-Dockham Shore Rd. He is against the café use.

D. Chesebrough said that the zoning allows specific uses through the special exception process. He said if the applicants meet the general requirements of the special exception the Board does not have a choice but to approve the application.

S. Smith spoke about the application growing into larger sales and he said the Board can condition the approval to only be for motorcycles and that any change of use would have to come back to the Town of Gilford for approvals. A. Howe asked about condition of approval dealing with limited hours of operation. S. Smith said his client might not be accepting to limiting the hours of operation.

J. Ayer spoke about the alcohol use and S. Smith said that can be corrected by condition of approval to not allow alcohol.

A. Howe closed the public hearing for file #Z08-16.

A. Howe explained Case #Z08-17, **Patricia Nix-Ford, Susan Belanger-Bright, Maureen D. Nix,** has requested the application be tabled until the September 23, 2008 meeting.

Motion made by P. LaBonte, seconded by D. Chesebrough, to table the **Patricia Nix-Ford, Susan Belanger-Bright, Maureen D. Nix,** application until the September 23, 2008 meeting. Motion carried with all in favor.

A. Howe announced that Case #Z08-18 Variance request for **Edward Mularz,** will not be heard. The application will be re-noticed for the September 23, 2008 meeting.

A. Howe announced the Board would enter into the deliberative session.

Board Deliberations

172 Lily Pond Rd., LLC

The Board discussed the application for a special exception for two uses.

D. Chesebrough said referred to the special exception criteria as follows:

1. The site appears to be appropriate for a small business to be located in an existing building that was used for commercial uses.
2. He said the activity is not injurious to the neighborhood.
3. The proposed use seems to fit in the Industrial Zone.
4. There is no undue nuisance to vehicle and pedestrian traffic on Lily Pond Rd.
5. There are appropriate facilities and utilities provided on site.
6. The application is consistent with the ordinance.

P. LaBonte said that road is very busy with vehicle traffic and there is nothing this Board can do about the current condition and status of Lily Pond Rd.

D. Chesebrough said the café use has to be approved under the restaurant definition in the zoning ordinance. He said the State of NH requires certain guidelines that deal with the amount of food served if there is alcohol being served.

S. Davis said the primary use seems to be the motorcycle sales and does not believe the café should be open after the sales room closes. He said the hours of operation for the café could be limited to the hours of operation of the motorcycle sales shop.

S. Smith said he does not know what his client plans for the hours of operation for the café. He said it would make sense to limit the hours of the café to the hours of motorcycle sales shop but he does not feel it is necessary to limit the business from trying to operate and make a profit.

J. Ayer said there is only so much a business owner can do to try to control their patrons.

A. Howe spoke about the abutters' and neighbors' concerns about the impact to the neighborhood and that is what the Board is trying to address.

Motion made by D. Chesebrough, seconded by S. Davis, to approve Case #Z08-16, application for a motorcycle sales room and light repair facility with a café has having met all the special exception criteria in Section 11.2 a-f and Article 4, Sections 4.3.20, 4.3.23, 4.7.3 (w) and 4.7.3 (t).

Discussion on the motion.

D. Chesebrough said the applicant has met the general rules of a special exception Section 11.2 a-f.

A. Howe called for a vote on the motion.

S. Verdile polled the members.

P. LaBonte-Yes

D. Chesebrough-Yes

S. Davis-Yes

A. Howe-abstained. Motion carried with all in favor, the special exception **was granted**.

MINUTES

Motion made by D. Chesebrough, seconded by P. LaBonte, to table the minutes from July 1, 2008 until September 23, 2008. Motion carried with S. Davis abstaining.

S. Davis is concerned about the mixed uses for special exception applications especially if the uses conflict with each other, i.e. a boat storage and restaurant on one site would create a traffic problem. J. Ayer reviewed Article 4 of the zoning ordinance and agreed those applications should be reviewed more closely.

The Board discussed the letter submitted by John Scannell. J. Ayer gave a brief history of the situation and explained what the applicant is trying to do. He is requesting a motion from the Board informing the applicant of the process he has to follow.

Motion made by S. Davis, seconded by P. LaBonte to deny the request from John Scannell for the ZBA to waive the site plan and special exception requirements and this applicant is not granted waivers from the Zoning Board and Planning Board process.

D. Chesebrough said the original airport Meadowbrook sign is reinstalled. He wants to know who has the authority to grant that sign be relocated again.

A. Howe said the Meadowbrook staff represented to the ZBA within a previous application for a sign on Route 11B, they would be removing the sign due to the location of the new sign on Route 11 and airport requirements.

J. Ayer and the Board discussed the sign on Route 11 was approved by D. Andrade with the inclusion of an easement from the Airport Authority. J. Ayer said in addition to the sign not being located properly, he does not believe it meets Article 8, Section 8.2.1.5 (d) as an easement is not equivalent to a right-of-way.

S. Davis explained Meadowbrook does not have a right-of-way on the land to support the location of the sign.

J. Ayer and The Board discussed what types of remediation the Board could take regarding this situation.

Motion made by D. Chesebrough, seconded by P. LaBonte to have J. Ayer check with Town Counsel on the remediation process for the Meadowbrook sign located adjacent to Route 11. The Board also agreed the sign is in violation of the spirit and intent of the zoning ordinance.

ADJOURNMENT

Motion made by P. LaBonte seconded by S. Davis, to adjourn the August 26, 2008 Zoning Board of Adjustment meeting at 8:50 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Administrative Assistant