

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
NOVEMBER 30, 2009
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Monday, November 30, 2009 at 7:00 p.m. in Conference Room A.

Present were: Chairman- Andrew Howe, Vice Chairman-Scott Davis, and Regular Member(s): Charles Boucher, Ellen Mulligan, and Alternates Connie Grant and Mark Corry.

Absent: Regular Member(s) Robert Dion and David Andrade, Code Enforcement Officer/Building Inspector.

Also present was: Stephanie Verdile Philibotte, Technical Assistant.

Chairman Howe led the Pledge of Allegiance. He appointed C. Grant to replace absent member R. Dion. He explained that the Board does not continue business past 10:00 p.m.
eHe announced

A. Howe introduced the first application.

Moyers & Hughes Investment Properties

Special Exception request pursuant to Article 15, Section 15.4.2 (a) of the Gilford Zoning Ordinance, to allow one (1) wetland crossings for a driveway on Tax Map & Lot #207-002.000, located at 140 Young Rd., in the Limited Residential Zone. Case #Z09-13. *Tabled from October 27, 2009.*

Motion made by C. Boucher, seconded by E. Mulligan, to take the application off the table. Motion carried with all in favor.

Bryan Bailey, agent representing the application, gave a brief presentation to the Board. He explained the proposal is for a wetland crossing for an access driveway. He explained they are planning to create a new subdivision and this crossing is required to access the lots. He said a significant portion of the property encumbered by significant wetlands. He said there is a large wetland that bisects the subject property and they cannot access the back portion of the property without impacting the wetlands. He said there is an existing wood road/snowmobile trail across the proposed wetland crossing. He referred to the wetland permit obtained by the NHDES Wetlands Bureau that was approved in September 2009 that allows them to impact 1108 sq. ft of wetlands for access to 1-lot of a 2-lot subdivision. The wetlands permit also includes the approval for the installation of a 15" x 40' culvert. He reviewed the special exception criteria as outlined in the application.

A. Howe asked about page 2 of the plan set and discussed the easement that leads to the wetland crossing that appears to cross 2 lots. B. Bailey explained they completed a Boundary Line

Adjustment between the Moyers and Hughes property and the Dunn property to reduce the frontage on Moyers and Hughes property and increase the frontage on the Dunn property. He explained it is a deeded easement that was created within the boundary line adjustment.

Discussion ensued about the easement proposed to access the property that it is shown to go through another section of wetland (southeast corner of the lot). S. Davis wants clarification this proposal is only based on the approved wetland crossing for the 1108 sq. ft. by the NHDES and at this time there is no application for additional crossings without going back to the NHDES and the ZBA. B. Bailey agreed they would have to go to the NHDES for additional approvals.

A. Howe opened up the hearing for public input. With no public input, A. Howe closed the public hearing.

A. Howe introduced the next application

ATT Mobility

Special Exception request pursuant to Article 4, Section 4.3.18 and 4.7.3 (r) of the Gilford Zoning Ordinance to allow the co-location of wireless antennae on an existing Telecommunications Tower on Tax Map & Lot #213-094.000, located at 9 Old Lake Shore Rd. in the Commercial Zone. Case #Z09-14. *Tabled from October 27, 2009.*

Motion made by S. Davis, seconded by C. Boucher, to take the application off the table. Motion carried with all in favor.

Pete DeMarco, agent representing the application, gave a brief presentation to the Board. He explained they are proposing to add 6 more antennae to the existing water tower. He said there is a proposed fenced area for the equipment shelter also proposed and he explained since they are proposing a fenced area for the equipment shelter; they have to apply for a special exception.

A. Howe spoke about the maintenance of the water tower and asked if there is a maintenance agreement for the tower. P. DeMarco said he did not know if there is a maintenance agreement, as the ownership of the tower has changed. S. Davis wants the navigational lights to be repaired on top of the tower and said the maintenance and repair of the lights have to be completed before he is willing to approve additional antennae at the tower at this time. The Board discussed that could be a condition of approval for the owners to address.

A. Howe opened up the hearing for public input. With no public input, A. Howe closed the public hearing.

A. Howe introduced the next application.

Philip Roger Burt

Equitable Waiver request pursuant to Article 5, Section 5.1.3 and Table 2 of the Gilford Zoning Ordinance on Tax Map & Lot #213-016.000 located at 12 Liscomb Circle in the Commercial Zone. File #Z09-15.

Philip Roger Burt, representing the application, gave a brief presentation to the committee. He said he has received letters from a few of his abutters in support of the equitable waiver and submitted them to the Board. He said he interpreted the area of his lot where the culvert is located was his property since the DPW notified him it is his responsibility to maintain the culvert so he assumed it was his property and he measured incorrectly from the culvert and not the stone wall. He reHe reviewed the criteria as outlined in the applixcaiton.HeHeHe

He reviewed the application and explained the mistake made in measuring.

The Board reviewed the file, previous applications and the memo submitted by Dave Andrade, Building Inspector explaining how the mistake occurred. The contractor explained because he has a personal financial hardship that prevents him from fixing the mistake.

A. Howe reviewed the letter written by Dave Andrade and the Mario brother in law said he was never told that he had to meet the setbacks by D. Andrade. The applicants said the letter written by D. Andrade does not reflect what they discussed with D. Andrade. P. Burt said they wanted to apply for a variance.

The Board and the applicant discussed the setback issue. P. Burt said he said he was never told he has to meet the setback by D. Andrade. S. Davis said the burden of proof lies with the property owner to verify the location of the property line.

The Board discussed tabling the application so D. Andrade can attend the meeting.

A. Howe opened up the hearing for public input. With no public input, A. Howe closed the public hearing.

DELIBERATIONS

Moyers & Hughes Investment Properties

Motion made by S. Davis, seconded by E. Mulligan, to approve the application has having met all the criteria for a special exception as outlined in Section 11.2 a-f and Article 15, Section 15.4.2 (a), as follows:

- 1 *The site is appropriate for the proposed use or structure.*
- 2 *The proposal is not detrimental or injurious to the neighborhood.*
- 3 *There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic.*
- 4 *Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure.*
- 5 *The proposal is consistent with the spirit of the zoning ordinance and the Master*

Plan.

Discussion on the motion.

S. Verdile Philibotte polled the members.

E. Mulligan-Y
C. Boucher-Yes
S. Davis-Yes
C. Grant-Yes

A. Howe-abstained.

Motion carried with all in favor. The application for a special exception **was granted**.

ATT Mobility

A. Howe agrees with S. Davis that a condition of approval be included to repair the navigational lights before additional antennae are installed. The Board agreed.

Motion made by S. Davis, seconded by C. Boucher, to approve the special exception request pursuant to Article 4, Section 4.3.18 and 4.7.3 (r) of the Gilford Zoning Ordinance to allow the co-location of wireless antennae on an existing Telecommunications Tower as having met all the special exception criteria as follows:

- 1 *The site is appropriate for the proposed use or structure.*
- 2 *The proposal is not detrimental or injurious to the neighborhood.*
- 3 *There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic.*
- 4 *Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure.*
- 5 *The proposal is consistent with the spirit of the zoning ordinance and the Master Plan.*

Discussion on the motion.

With the condition of approval

- 1) Proof of repair of existing hazard lights prior to installation of new equipment, continued maintenance of the lights and they are properly located on top of the tower.

S. Verdile Philibotte polled the members.

E. Mulligan-Yes
C. Boucher-Yes
S. Davis-Yes
C. Grant-Yes

A. Howe-abstained.

Motion carried with all in favor. The application for a special exception **was granted**.

Philip Roger Burt

A. Howe would like D. Andrade to attend the meeting since the letter the Board reviewed was written strongly.

The Board discussed the application and S. Davis said he would have been more inclined to grant a variance.

Motion made by C. Grant, seconded by E. Mulligan to table the equitable waiver request to December 29, 2009, in order for the Board to review the property and have D. Andrade present at the next meeting. Motion carried with all in favor.

The equitable waiver request was tabled until December 29, 2009.

OTHER BUSINESS

MINUTES

Motion made by C. Grant, seconded by E. Mulligan, to approve the minutes of October 27, 2009 as corrected. Motion carried with all in favor.

Change in 2009 meeting schedule

Motion made by C. Grant, seconded by E. Mulligan, to approve the 2009 change in Meeting Schedule and approve the December 29, 2009 meeting. Motion carried with all in favor.

2010 Meeting Schedule

Motion made by C. Grant, seconded by E. Mulligan, to approve the 2010 Meeting Schedule. Motion carried with all in favor.

ADJOURNMENT

Motion made by C. Boucher, seconded E. Mulligan, to adjourn the November 30, 2009 Zoning Board of Adjustment meeting at 8:45 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Technical Assistant