

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
MARCH 23, 2010
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, March 23, 2010 at 7:00 p.m. in Conference Room A.

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

Absent Regular Member(s) Robert Dion, Ellen Mulligan.

Also present was: David Andrade, Code Enforcement Officer/Building Inspector and Stephanie Verdile Philibotte, Technical Assistant.

Chairman Howe led the Pledge of Allegiance. He appointed M. Corry to replace absent regular member R. Dion. He appointed C. Grant to replace absent member E. Mulligan. He explained the Board does not conduct business past 10:00 pm. He suggested that the Board may want to table the two new variance applications for Paugus Bay Condominium and Gilford Community Church to the April meeting until the Board can receive training from the Town Attorney, which will take place on April 1, 2010.

eHe announced

A. Howe read a letter from the agent for the **Glenn Cooper** application requesting it be tabled until April 27, 2010.

Glenn Cooper

Variance request pursuant to Article 5, Section 5.1.4. of the Gilford Zoning Ordinance, to construct a deck within the twenty-five (25) foot setback located on Tax Map & Lot #267-151.000 located at 46 Terrace Hill Road in the Single Family Residential Zone. File #Z10-02. *Tabled from the February 23, 2010 meeting.*

Motion made by C. Boucher, seconded by M. Corry, to table the **Glenn Cooper** application until the April 27, 2010 meeting. Motion carried with all in favor.

A. Howe introduced the next application.

Paugus Bay Condominium Association

Variance request pursuant to Article 4, Section 4.2.10 of the Gilford Zoning Ordinance to allow Senior Housing as a Permitted Use on Tax Map & Lot #201-001.000 located at 131 Lake Street in the Commercial Zone. File #Z10-03.

Craig Donais, agent representing the application, and Dave Ackeredge, unit owner and Condominium Board member, gave a brief presentation to the Board. C. Donais explained the

building is a mix of commercial and residential uses. He explained they are looking to add the use of senior housing as they are not looking to construct new units; they are looking to change the use of existing units. He referred to Section 11.4.7, Senior Housing, of the zoning ordinance reviewed the criteria and how this proposal can meet them. He admitted they are proposing more units than are allowed by the ordinance and acknowledged they would need a variance from that section. He said their proposal can meet recreational amenities, parking, lot coverage, setback requirements and the fire protection system has been updated. He said the current owners would like the ability to rent out their unit to someone who is 55 years old and older in the off season

C. Grant asked about the 30 day restriction for the time limit to rent a unit and C. Donais said that is what the ordinance required at that time the site was approved.

S. Davis is doesn't understand the purpose of the application. C. Donais said they are looking to be able to extend the amount of time that unit owners can rent the units.

D. Andrade explained the approved use is a hotel/motel and explained it is for transient use only and referred to the definition of "transient" in the ordinance.

C. Donais said they are looking to change the use to allow a unit owner to rent the unit out from September-May to someone 55 years old and older.

David Ackeredge-explained when the condominium was approved, the Town of Gilford was concerned the units would become permanent residential units and the Town of Gilford only wanted the transient use to be in place. He explained the unit owners are not allowed to earn any income from their units and this proposal would allow them to obtain income. He said they are trying to honor the town's original approval to not have permanent residency. He said their condominium declarations do state their use is transient in nature however; the hotel in town allows transient stays for up to 60 or 90 days or more and the condominium association has very similar units to the hotel. He invited the Board to visit the site and visit the hotel in town.

S. Davis wants clarification of why they are requesting senior housing as a use. He does not believe this site is appropriate for senior housing as it is difficult for seniors to have access to public services in the winter months. He believes senior housing is permanent and not transient in nature.

D. Ackeredge explained the unit owners are in financial need of having their units available to the public to be rented from September-May in addition to the summer months.

D. Andrade suggested the applicant withdraw and come back with a different proposal for the change of use.

C. Grant said she would not be in favor of allowing the units to be rented out from September-May for 55 years and older when those people may have four children in school and that is taxing to the school and town services.

D. Ackeredge acknowledged the problems of people trying to establish residency in the past but they want to work with the town for enforcement.

A. Howe asked how this proposal would be enforced due to the problems in the past. D. Ackeredge said they would be willing to enforce on their own units and residents in order to help the town. He explained the units are all different in sizes and not able to house children and that would help prevent people from establishing permanent residency.

The Board discussed other options for the site the applicant could pursue in order to allow the unit owners some flexibility with the rental of their units.

D. Ackeredge said they will withdraw the application for the senior housing at this time and they will reapply under the possibility of having seasonal uses, and they will work with the town on enforcement and other issues on site.

A. Howe explained since the application has been withdrawn, there would not be a public hearing for public input.

A. Howe introduced the next application.

Gilford Community Church

Variance request pursuant to Article 8, Section 8.10.5.1 of the Gilford Zoning Ordinance to allow a sign to be located five (5) feet from the front property line where fifteen (15) feet is required on Tax Map & Lot #226-079.000 located at 19 Potter Hill Road in the Single Family Residential Zone and the Historic District. File #Z10-04.

Steve Smith, agent representing the application, gave a brief presentation to the Board. He explained the location of the sign that complies with the ordinance can only be seen from one direction on Potter Hill Rd. He said by having it be five from the property line would allow the sign to be visible along both directions on Potter Hill Rd. He reviewed the new variance criteria as submitted on the application.

A. Howe asked about an alternative location for the sign. S. Smith said if they moved the sign to comply with the ordinance it would not be visible to the public. He also spoke about the fact the Church retained an historic building on site and that building is interfering with the visibility of the sign.

The Board discussed the visibility of the sign from both directions on Potter Hill Rd.

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

A. Howe introduced the next application. D. Andrade suggested the Board review application #5 on the agenda before #4 on the agenda due to the fact that applications #4 and #6 on the agenda were related as they affect the same wetland system. The Board agreed.

McGinley Development Inc.

Special Exception request pursuant to Article 15, Section 15.4.2 of the Gilford Zoning Ordinance to allow the filling and or crossing of wetlands for proposed commercial development on Tax Map & Lot #210-010.002 located at 22 Sawmill Road in the Professional Commercial Zone and Aquifer Protection District. File #Z10-06.

Jeff Lewis, agent representing the application, gave a brief presentation to the Board. He explained the layout of the site and proposed uses. He said they do not have any NHDES approved permits at this time.

A. Howe explained they usually do not accept applications that deal with wetlands that do not have the NHDES approvals in place. J. Lewis said he was not aware of that process. J. Lewis said they have appeared informally in front of the Conservation Commission, the Planning Board, and they have been through the Site Study process.

A. Howe does not want to hear the application due to the fact the applicant has not met with the requirements of section 15.4.2 of the ordinance.

The Board discussed since the applicant does not have the proper approvals from the NHDES if they would allow the applicant to present the application but they are not going to provide input.

C. Grant does not want to hear any presentation from the applicant at this time because of the lack of the NHDES approvals. She believes the applicant is putting the Board in a difficult position and is not comfortable allowing the applicant to move forward.

Staff helped explain to J. Lewis how applicants normally go through the process when a NHDES application is submitted to the town and how to go through the process for a special exception.

Discussion ensued about when a formal application is submitted to the NHDES it is also copied to the Conservation Commission. Once the Commission has a formal application in front of them, they can provide comments. According to the existing regulations, if an applicant has proposed wetland impacts for a project they first obtain a letter of denial that informs then a special exception is needed from the Zoning Board before they proceed to the Planning Board. This applicant did not start the process in that order.

Discussion ensued about when the applicant obtains the proper NHDES approvals; the Board will approve the special exception application.

A. Howe did not open the hearing for public input as the applications are not being heard.

The Board discussed they would not hear the applications until the applicant received the proper NHDES approvals.

McGinley Development Inc.

Special Exception request pursuant to Article 15, Section 15.4.2 of the Gilford Zoning Ordinance to allow the filling of wetlands for proposed commercial development on Tax Map & Lot #210-011.002 located at 21 Sawmill Road in the Professional Commercial Zone and Aquifer Protection District. File #Z10-05.

McGinley Development Inc.

Special Exception request pursuant to Article 15, Section 15.4.2 of the Gilford Zoning Ordinance to allow the filling and or crossing of wetlands for proposed commercial development on Tax Map & Lot #210-010.002 located at 22 Sawmill Road in the Professional Commercial Zone and Aquifer Protection District. File #Z10-06.

McGinley Development Inc.

Special Exception request pursuant to Article 15, Section 15.4.2 of the Gilford Zoning Ordinance to allow the filling of wetlands for proposed commercial development on Tax Map & Lot #210-010.004 located at 25 Sawmill Road in the Professional Commercial Zone and Aquifer Protection District. File #Z10-07.

Motion made by S. Davis, seconded by C. Boucher, to table all three McGinley Development Inc. applications until May 25, 2010 in order for the applicant to obtain proper NHDES wetland approvals. Motion carried with all in favor.

DELIBERATIONS

Gilford Community Church

Motion made by C. Grant, seconded by M. Corry, to table the application until April 27, 2010 so the Board can receive training on the new variance criteria. Motion carried with all in favor.

OTHER BUSINESS

MINUTES

Motion made by S. Davis, seconded by M. Corry, to approve the minutes of February 23, 2010 as presented. Motion carried with C. Grant abstaining.

A. Howe announced the retirement of C. Boucher and thanked him for his service to the Board.

ADJOURNMENT

Motion made by S. Davis, seconded by C. Boucher, to adjourn the March 23, 2010 Zoning Board of Adjustment meeting at 8:35 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Technical Assistant