

**GILFORD ZONING BOARD OF ADJUSTMENT  
MINUTES  
AUGUST 24, 2010  
CONFERENCE ROOM A  
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, August 24, 2010 at 7:00 p.m. in Conference Room A.

Present were: Chairman- Andrew Howe; Vice Chairman-Scott Davis and Regular Member(s): Mark Corry and Ellen Mulligan.

Also present was: Stephanie Verdile Philibotte, Technical Assistant.

Absent Member(s) Robert Dion and Alternate Connie Grant. Also absent-David Andrade, Code Enforcement Officer

Chairman Howe led the Pledge of Allegiance. He explained since there is not a full Board, there will have to be a majority of three voting members for each application. He gave the applicants the option to either continue to another meeting or move forward at this meeting. All the applicants chose to move forward at this meeting.

A. Howe suggested the three McGinley Development, Inc. applications be heard at the same time. The applicant and the Board agreed.

**1. 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.

**2. 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.

**3. 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.  
*Tabled from the June 29, 2010 meeting.*

Motion made by S. Davis, seconded by E. Mulligan, to take the applications off the table. Motion carried with all in favor.

Jeff Lewis, agent representing the applications, gave a brief presentation to the Board. He explained they were in front of the ZBA in March and were tabled until they were able to obtain the NHDES wetlands permit. They have received Planning Board approval (contingent upon all other approvals obtained), Conservation Commission has reviewed the plans and completed a site walk and they received their NHDES Wetlands permit. They are back before the Zoning Board to obtain the special exceptions required for the wetlands impacts.

He explained the revised overview plan and the wetland impacts on Lot #10.2 is actually a restoration of an existing culvert and that is how the NHDES has classified that portion of the project.

He reviewed wetland impacts for Lot #10.4 and explained wetland impact #2 as being 3150 SF, impact #3 of 1050 SF, and impact #4 4780 SF. On Lot #10.2 there will be a temporary impact of 80 SF and then some wetland restoration work totaling 215 SF. He reviewed the proposed wetland buffer planting plan proposed for Lot #10.4 that will run along the back of the parking lot area.

S. Davis asked about the NHDES Alteration of Terrain permit and J. Lewis said they are in the process of submitting that application. Discussion ensued about having all the permits from the NHDES approved before the applicant can start work on site. J. Lewis said they understand the NHDES approval process and they are applying for their permits in stages.

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

E. Mulligan asked if other conditions of the NHDES permit have been met and J. Lewis said yes.

A. Howe spoke about the fact the NDHES wetlands permit approval at this time prohibits them from impacting any additional wetlands in the future on the entire site. J. Lewis said they are aware of that and realize it is a condition of approval.

The Board had no further questions.

A. Howe introduced the next application.

**4. Hannaford Bros. Co. /William McKenny**

Special Exception request pursuant to Article 4, Section 4.6.14 of the Gilford Zoning Ordinance to allow a drive-through window as an accessory use to a pharmacy on Tax Map & Lot #201-024.000 located at 1407 Lakeshore Rd in the Commercial Zone and Aquifer Protection District. File#Z10-11.

Steve Smith, agent representing the application, gave a brief presentation to the Board. He explained the location of the property and the purpose of the application. He explained the project was originally approved in 2003 as a new commercial site. They revised the site plan in 2005 and it was approved. The construction of all the site work for the area as well as the Lowe's, Papa Gino's, an additional retail site pad and the future pad for the Hannaford store to relocate was constructed at that time. S. Smith explained currently the site plan has been revised to include a smaller version of the Hannaford store they are proposing and in addition to the store; there will be a drive up pharmacy. He explained the ordinance requires them to apply for a special exception due to the addition of the drive up window for the pharmacy. He reviewed the criteria for a special exception as described in the application submitted.

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

The Board entered into the deliberative session.

### **DELIBERATIONS**

Due to the fact the Board decided to hear the three McGinley applications as one application therefore; they will deliberate on them as one application.

#### **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 E. Mulligan, to approve the McGinley Development Inc. applications as having met all the criteria for special exception pursuant to Article 11 and Article 15, Section 15.4.2 of the Gilford Zoning Ordinance, with an additional condition of approval 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.*
- 6 *A letter of denial was issued by the Town of Gilford on 3/10/10.*

This approval is contingent upon the applicant complying with standard and special conditions with the NHDES Wetlands permit issued and approved on 8/6/10.

S. Verdile Philibotte polled the members.

M. Corry-Yes  
E. Mulligan-Yes  
S. Davis-Yes

A. Howe abstained

Motion carried with all in favor. The **McGinley Development Inc.** Special Exception applications **were granted.**

The Board discussed the next application.

**Hannaford Bros. Co. /William McKenny**

Special Exception request pursuant to Article 4, Section 4.6.14 of the Gilford Zoning Ordinance to allow a drive-through window as an accessory use to a pharmacy on Tax Map & Lot #201-024.000 located at 1407 Lakeshore Rd in the Commercial Zone and Aquifer Protection District.

Motion made by E. Mulligan seconded by M. Corry, to approve the **Hannaford Bros. Co. /William McKenny** application as having met all the criteria for special exception pursuant to Article 11 and Article 4, Section 4.6.14 of the Gilford Zoning Ordinance as follows:

- 1 *The site is appropriate for the proposed use or structure. The*

principal use for the proposed use allowed in the zone and the drive through window is an accessory use.

2. *The proposal is not detrimental or injurious to the neighborhood.* The drive-through window is an accessory use to the principal use. It is located in an area which will not affect or impact other uses, vehicular or pedestrian access.
3. *There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic.* The window is located in an area which will allow little to no impact to vehicular or pedestrian traffic. Access is located in an area where employee parking will occur with minimal pedestrian traffic.
4. *Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure.* The window will be located in an area which will allow for the stacking of 5 cars without impacting vehicular traffic on site.
5. *The proposal is consistent with the spirit of the zoning ordinance and the Master Plan.* The proposed use is specifically allowed by Special Exception and will meet all zoning/site plan requirements.
6. *A letter of denial was issued by the Town of Gilford on 8/4/10.*

S. Verdile Philibotte polled the members.

M. Corry-Yes  
E. Mulligan-Yes  
S. Davis-Yes

A. Howe abstained.

Motion carried with all in favor. The **Hannaford Bros. Co. /William McKenny** application for a Special Exception was **granted.**

## **OTHER BUSINESS**

## **MINUTES**

Motion made by S. Davis, seconded by M. Corry, to approve the minutes of July 27, 2010 as presented. Motion carried with all in favor.

## **ADJOURNMENT**

Motion made by E. Mulligan, seconded by M. Corry, to adjourn the August 24, 2010 Zoning Board of Adjustment meeting at 8:00 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte  
Technical Assistant