

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
MAY 22, 2012
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, May 22, 2012, at 7:18 p.m. in Conference Room A.

Present were: Chairman-Andrew Howe, Vice Chairman-Scott Davis. Regular Members: Ellen Mulligan and Stephan Nix and Bill Knightly.

Also present was: David Andrade, Building Inspector/Code Enforcement Officer and Sandra Hart, Secretary.

Chairman Howe led the Pledge of Allegiance and introduced the Board members and staff.

A Howe stated that he would have to recues himself due to a conflict of interest

Gilford Route 11 Realty Trust c/o S.R. Weiner & Associates, Inc. Application
#2012000103

Special Exception request from Article 15, Section 15.4.2 (a) for the expansion of existing retail space and reconfiguration of existing vehicle circulation and parking, Tax Map & Lot # 213-023.000 located at 1458 Lake Shore, in the Commercial (C) and Industrial (I) zones, and the Airport and Aquifer Protection overlay districts.

Caleb Perrin, project manager for WS development, representing Gilford Route 11 Realty Trust and he explained the proposal to the board members.

Bill Stack of Steve Smith & Associates referred to the plans that he displayed for the board and he then explained them. He went over the current and proposed parking, drainage system, municipal sewer, utilities, retention basins, run off, and extension of the retaining wall, wetlands and the expansion of the building.

They have received their Department of Transportation driveway permit, which involved a new controller and a GPS addition to the signalization points as to the coordinate them. We were responsible to provide the equipment and DOT will install them.

He explained what is on site today and how it is working and new the proposal for the drainage, berm, pipes, and pond. We are also planning to add a storm water oil/trash debris catch basins to keep those things from going into the water.

He then referred to the wetland impact area on a plan, which he then explained to the board members.

He read the section for Special Exception as specified in the Gilford Zoning Ordinance, Article

15 Section 15.4.2 (a) and the request is for expansion of existing retail space and reconfiguration of existing vehicle circulation and parking.

(a) A denial was issued by the Town official on matters under their jurisdiction on May1, 2012.

(b) The site is appropriate for the proposed use or structure because: existing Lake Shore Marketplace was initially constructed as “Rich’s Plaza”, with Site Plan Approval received from both the City of Laconia on August 27, 1990 and the Town of Gilford on April 9, 1990. The use was an allowable use at the time of construction and continues to be a permitted use within the commercial zone. The proposal is to expand the existing use in conformance with both the City of Laconia and Town of Gilford zoning regulations under a new site plan approval.

(c)The proposal is not detrimental or injurious to the neighborhood because: entire neighborhood is located within the commercial zone and abutting uses with the exception of a Manufactured Housing Park are commercial uses. The proposed new expansion will not be located any closer than the existing structure to the Manufacture Housing Park and the new addition will maintain a 200’ plus buffer from same.

(d)There will not be undue nuisance or serious hazard to pedestrian or vehicular traffic because: The basic pedestrian or vehicular traffic will remain as proposed and approved in 1990. A reconfiguration of the existing serviced drive will be constructed to access the rear of the building for deliveries, employee parking and emergency access. Parking will be modified to improve customer accessibility to the proposed project.

(e) Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure, as follows: existing shopping center is serviced by municipal water, sewer, electrical and has an operating storm water detention system. Existing services impacted by the expansion will be re-designed and improved in accordance with local and state standards. Storm water treatment will be enhanced to manage the additional storm water runoff and improve the quality of the storm water treatment.

(f)The proposal is consistent with the spirit of the zoning ordinance and the Master Plan because: proposed use is a permitted use under the Town of Gilford Zoning Ordinance with in the Commercial Zone and will be designed to meet all standards. Additionally the project meets Section15.1 purpose and intent

- Will not contribute to pollution of surface and ground water by sewage or toxic substances;

The buildings onsite are presently connected to the municipal sewage system, and they and the building addition will continue to be in the future. The retail establishments on site are not generator of toxic substances. In addition, erosion control measures will be implemented during construction and monitored under the State of NHDES, Alteration of Terrain Permit (AOT), and EPA, Storm Water Pollution Protection Permit, (SWPPP).

- Prevent the destruction of , or significant changes to natural wetlands which provide flood protection;

The wetland to be altered by the proposed project is not located on a floodplain, and do not contain significant quantities of storm water. The forested wetland does not contain large depressions capable of containing significant quantities of surface water. During several field observations during spring, summer and fall of 2011, including periods of above-normal precipitation, little or no surface water was observed within the wetland. The project includes replacement of the culvert outlet from an existing storm water basin, with the outlet adjacent to Black Brook, which is situated within the 100-year FEMA floodplain. The project, however, does not include placement of fill in the floodplain, thus no loss of storage will occur.

- Protect unique and unusual natural areas;

The wetland and uplands where work will occur for the proposed project do not consist of unique or unusual natural areas; therefore no impacts to such features will occur.

- Protect wildlife habitats and maintain ecological balance;

The proposed project will include alteration of forested wetland and uplands adjacent to the existing Lake Shore Marketplace. The current setting and land characteristic minimize the quality of wildlife habitat on the site. Therefore, the project will not result in the loss of significant wildlife habitat or disrupt the ecological balance.

- Protect potential water supplies and existing aquifers (water-bearing strata) and aquifer recharge areas;

The proposed project will occur on a site having dense glacial till (hardpan) soils that limit the infiltration of water from the surface to groundwater. The site, therefore, is not an aquifer or an aquifer recharge area, which generally occurs on geologic deposits that are characterized by loose sandy soils (stratified glacial deposits). As a result of the project's location on dense glacial till, the project will not have significant adverse effect on potential water supplies, or existing aquifers or aquifer recharge areas. Additionally we have reviewed, the Town of Gilford's Aquifer Protection District which does not encompass this area.

- Prevent expenditures of municipal funds for the purpose of providing and or maintain essential services and utilities which might be required as a result of misuse or abuse of wetland.

The proposed project will not cause increase in the expenditure of municipal funds for providing and /or maintaining essential services and utilities as a result of work in wetlands and the loss of water quality.

- Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in wetland;

Since the expansion will occur adjacent to the existing Lake Shore Marketplace, which was constructed over 20 years ago, it avoids the potential alternative of building an entirely new retail building on a undeveloped, off-site location of approximately 20 acres or more, which would likely involve significant impact to the wetlands. The proposed project therefore avoids development of a large undisturbed parcel elsewhere, thus avoiding a "high-intensity use" on undeveloped land and wetlands.

S. Davis asked the board if they had any questions for B. Stack.

S. Davis stated that he understood that they have gone through the DOT and they control the driveway permit, but the previous driveway review the mitigation period for that had gone by. He would like a little more explanation as to how a GPS controller, there's no increase level of service by this and there's no decrease level of service with the traffic that's out there and he's curious that here are no highway or traffic improvements.

B. Stack replied that they have studied the intersections and based on the information currently and based on the traffic study the traffic has dropped over the last 10 years and by using that determination as well as what we have for current conditions. We showed minor impacts to the traffic and low delay.

S. Davis stated that even though Hannaford is not there you still have to take it in to consideration.

Yes, we did that replied B. Stack. S. Davis thought that those three intersections were all hardwired now, we did to, but there not, replied B. Stack.

S. Davis stated that you presented an argument for detention from the pollutant stand point, longer detention for the pollutants that are coming off the surface. Black Brook being as controversial as it is will the storm water runoff going to be detained for pre-development.

B. Stack replied yes absolutely and that's why I mentioned the increase in size and that it will be able to store more a little more water that's generated by the increase.

S. Davis asked how much of the water coming out front as opposed to the back. All of it replied B. Stack. S. Davis stated for the record that you are going to be detaining post development flows to predevelopment.

B. Stack stated that the storms we looked at were 2, 10 and 50 year storms events required by AOT.

D. Andrade was asked to question the stability capability of the outflow area of the new pond area and if it brought us through an 11 inch rain storm and their worried about that wall giving away. B. Stack stated that it has issues today and our intent is to fix that and that will in tale removal of those two pipes, reconstruction and reestablishment of that berm that's there today. D. Andrade asked if the pond fills up and starts overflowing what would happen. It would go out the overflow replied B. Stack. C. Perrin stated that the spillway is actually set on ledge and it's not part of the berm.

S. Davis asked if the normal storm water runoff is at 100 year frequency. The maximum is a 50 year storm replied B. Stack.

S. Davis asked for the stand point to put it in perspective as to the intensity of the storm that we might see water coming out of that overflow.

B. Stack stated you might see water coming out of that over flow if we see a 100 year storm event, but it still maintains about a 1 foot freeboard stated B. Stack. Initially the storm events that we designed were for as to the original pond were 10 and 25 year storms and that's all we used to look at.

AOT is asking us to look at larger storms and we are providing that to them.

S. Davis asked if the board could get copies of the storm water runoff. Yes, replied B. Stack.

S. Nix stated that had a procedural question and it looks like we are looking at Section 15.4.2 for Special Exception, which requires you to go to the Planning Board and Conservation Commission prior to coming to us, but he didn't see any of the recommendations. B. Knightly replied that there was a letter from John Ayer, Planning Director in the packet.

S. Nix asked about the dual jurisdiction between Laconia and Gilford and how that's being handled. B. Stack stated that they have been to them on informal bases and have submitted applications. C. Perrin stated that we have informally spoken with both municipalities, but technically we are further along in Gilford.

S. Nix stated that one of his concerns is that the majority of the fill is going on in Laconia, but the mitigation is going on in Gilford. He's struggling on how we work that, because it could fall through the cracks, because we as the Zoning Board of Adjustment aren't having direct communication with Laconia as to what their looking at and with no comment from the Planning Board he's wondering whether Gilford's had engineers looked at this to give us assistance as to the drainage structures.

D. Andrade stated that they had an opportunity to vote at the Planning Board last night to turn this over to the town engineer, but they chose not to, because they feel comfortable with the presentation of the engineering to date and that's why you didn't get any comments. E. Mulligan asked if we could vote to turn it over to the town engineer. Yes you can, replied D. Andrade under the state statute 676:5.

S. Davis stated that typically we would at least see a wetlands permit approved by the state relative to the mitigation. B. Stack stated that's why we are here to get relief for the Special Exception.

S. Nix stated he would feel more comfortable if the Town of Gilford were to have our own engineer review this and give us guidance as to what is going on, he does have faith in B. Stack but knows that engineers do have different ways of looking at things which are beyond his expertise.

S. Davis asked if Laconia still had an engineer on staff, yes they do replied B. Stack.

S. Davis stated that he was concerned about that if we give or we put a motion here and vote on this tonight that it would certainly have to be conditional upon receiving state wetlands permit, which is normally what we have done in the past. S. Nix stated that this is a good project and

the goals are great, but the engineering is beyond us. S. Davis stated that all of the work is being done in Laconia but we are the ones that will have the biggest purview of review in terms of the mitigation of the storm water runoff that's all coming into Gilford, but to cover us it won't hurt to have a third party review.

S. Nix stated that this says that we have to make an affirmative binding that certain things are going to happen and in order to make that finding he would like to want to have some professional input. S. Davis asked if they had an application in to the Wetlands Board. B. Stack replied that they do have an application, but it's on hold because of the Conservation Commission letter that they sent.

S. Davis stated that if our own Conservation Commission hasn't made a decision and we haven't seen were the State's going with the wetland permit we are sort of out there on a limb.

S. Davis stated that the issue isn't the wetland impact, because that's minimal. It's the secondary impact of the development of site that's coming into Gilford by improving it and diverting all that run off. B. Stack stated that's all they really have done is retain and maintain the flow of the runoff and thee impacts.

D. Andrade stated what if you were to consider the 211 square feet and review just that area on a conditional approval that the town forwards the package to a third party for their review. S. Nix stated that he isn't comfortable with that.

Thomas Sokoloski of Shauer Environmental Consultants and he explained the wetland and what they found. He described the vegetation, conditions, soil, and stated that this is the driest area of wetland that you would find in the North East. Within the wetland community it is very low of the scale of wetlands functions and values. It is an isolated system and it gathers a little bit of water from the watershed area and is a very low grade and you would have a hard time seeing where the water flows.

C. Perrin stated that he is willing to accommodate the board and to see the town engineer and they are looking to be ready to start as soon as possible. WS development will need to relocate two tenants; Olympia Sports and Dollar Tree and will keep Walmart running during the demolition and construction.

Motion made by S. Nix made a motion to table this application for a third party engineer review by contracting engineer with a request for a report back for the next meeting. S. Davis asked what specifically do you want the engineer to review. S. Nix asked to hold the motion for a second.

S. Nix stated that the issue is the drainage design for the retention ponds and how that is going to meet the criteria of the special exception and whether the engineer has any comments that would make it work better. S. Davis stated that it still sounds broad and we need to narrow that down.

S. Davis if he sent it to the engineer he would like them to look at the calculations in the adequacy of the detention pond, micro pool from the storm frequency and that it's all ok. It's

specifically verifying the design and what's really needed. B. Stack stated that the retention pond that's there today takes water in, stores it and then releases it rather quickly within 3-4 hours. He then explained it to the board members.

S. Davis asked if there were any comments from the public. Hearing none we will proceed with the motion.

Motion

Motion made by S. Nix, seconded by E. Mulligan to table this application to the June 26, 2012 meeting for the proposed design to be reviewed by the town's consulting engineer for the adequacy of the storm water runoff design, associated structures, and storm water treatment.

Any discussion on the motion, none then we will proceed with the vote.

Bill - yes

Steve - yes

Ellen - yes

Scott –abstained to do a vote in the affirmative

MINUTES

Motion made by S. Davis, seconded by B. Knightly to approve the minutes from April 24, 2012 meeting. Motion carried with E. Mulligan abstaining.

OTHER BUSINESS

A. Howe stated that a violation notice was brought up to keep us informed of a previous application that we had approved. The discussion ensued.

ADJOURNMENT

Motion made by S. Nix, seconded by B. Knightly, to adjourn the Zoning Board of Adjustment meeting at 8:44 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary