

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
JULY 24, 2012
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, July 24, 2012, at 6:58 p.m. in Conference Room A.

Present members were, Vice Chairman-Scott Davis, and Regular Members: Ellen Mulligan and Bill Knightly and Alternate Member Ann Montminy.

Members Absent were Chairman-Andrew Howe; Regular Member Stephan Nix

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

Vice Chairman Davis led the Pledge of Allegiance.

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

Requesting approval of a compliance hearing pertaining to the conditions required to be met for a Special Exception conditionally approved on June 26, 2012. 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.

Discussion:

S. Davis stated that they were here to review and approve the Storm Water Operations and Maintenance Manual.

S. Davis asked if there were any questions from members of the board.

S. Davis had one concern and that was that if at any time there is a legitimate reason that we could initiate an inspection. Will the owner have any issue with that? R. Dyer stated that there would be no issue with that. He thinks that the attitude of WS development is to cooperate with the town and meet the standards of both communities and that there would be no problem with doing that.

S. Davis stated that if we did need to go and do an inspection that we would contact someone such as the owner or applicant to meet with us there.

R. Dyer stated that they would cooperate anyway necessary.

A. Montminy asked if that would be something that would ordinarily be added to the manual, but she didn't know that because she has never dealt with this type of situation before. D. Andrade stated that he didn't think so, because if there were any issue in

the past they just went out to the site and did the inspection.

D. Andrade stated that there was one other item that would have to be addressed and that is on page 7 of the minutes from last month's meeting, Condition #1 which referred to the engineers 3rd review.

The board then went over the 3rd party engineers review #3. S. Davis stated that under general comments it states that based on his review, the consultant has made all of the suggested changes and corrections.

S. Davis asked D. Andrade if the Operation and Maintenance Manual would work for him. Yes it would, replied D. Andrade.

B. Knightly referred to the motion made by Steve Nix at the June meeting.

Motion

Motion made by B. Knightly, seconded by E. Mulligan to:

Remove the Special Exception conditions as both items have been met and approve the request from Gilford Route 11 Realty Trust Application # 2012000103 for a Special Exception request from Article 15, Section 15.4.2 (a) for expansion of an existing retail facility as described on the application because:

- 1) The use is essential to the productive use of the land.
- 2) Is constructed as to minimize any detrimental impact of such uses upon the wetland and the ZBA makes affirmative findings that:
 - a) The use shall not cause pollution of surface and ground water and
 - b) Will not have detrimental affect on ecology and
 - c) Will be consistent with the public welfare, health, convenience and safety and
 - d) Will not increase the likely hood of flooding in the area or elsewhere.

B. Knightly also requested that Stephan Nix's letter be written into the minutes:

STEPHAN T. NIX
19 RILEY ROAD
GILFORD, NH 03249
603-524-4963, (fax 524-1978), snix@metrocast.net

Scott Davis, Acting Chairperson
Gilford ZBA
47 Cherry Valley Road
Gilford, NH 03249

Re: **Gilford Route 11 Realty Trust c/o S.R. Weiner & Associates, Inc.**
App. #2012000103

Dear Scott:

It is my understanding that the compliance hearing for this matter is scheduled for July 24, 2012. Due to a prior commitment, there is a good chance that I will not be able to attend the hearing. Therefore, I would like to request that you read this letter into the minutes.

At the June 26, 2012, ZBA meeting, I made a motion to conditionally approve the Special Exception, which was approved. Condition number 2 of approval states:

That the applicant develop a "Storm water Maintenance and operators manual" that includes provision for qualified 3rd party inspection and reporting to the town. After the final development the manual the applicant shall submit to the ZBA for a compliance hearing.

I am in receipt of the "Storm water Operations and Maintenance Manual" dated revised 6/18/12 by Steven J. Smith & Associates. Unfortunately, the Manual does not include a requirement for reporting to the results of the inspections to the town and therefore, it does not meet the requirement in the approval conditions.

My intent in making the condition was not to create an onerous situation where every inspection would be reported to the town. My thought would be for the owners to submit an annual synopsis of the inspections to the Department of Planning and Land Use (perhaps the Conservation Commission would accept the lead on reviewing these reports). The Manual as written identifies a storm with 2.5"+ of rain in a 24 period as needing immediate inspection.

This size event should also require a special report be submitted to the town.

There also appears to be something of a disconnect in the usage of terms in the document. In several of the paragraphs the term "shall" is used, denoting a required inspection or action. In other paragraphs the term "should" is used, denoting optional inspection or action. In reading the document as a whole, it would appear that the term "shall" is generally more appropriate.

Thank you for considering this input when reviewing the document for compliance.

Sincerely,

Stephan Nix

B. Knightly stated that they did a great job on the manual.

S. Hart polled the members.

Ann - yes

Bill - yes

Ellen - yes

Scott - yes

Motion carried with all in favor.

R. Dyer stated that he wanted to make sure that they have satisfied the needs of the board. Yes, that is correct replied the board members.

OTHER BUSINESS

S. Davis asked about the New Hampshire case law that he received in the mail. D. Andrade stated that it was submitted by the town attorney and mailed out to all the Zoning Board members.

MINUTES

Motion made by E. Mulligan, seconded by B. Knightly to approve the minutes from June 26, 2012 meeting as amended. Motion carried with all in favor.

ADJOURNMENT

Motion made by E. Mulligan, seconded by B. Knightly, to adjourn the Zoning Board of Adjustment meeting at 7:15 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Hart, Secretary