

Approved December 3, 2007
GILFORD PLANNING BOARD
NOVEMBER 19, 2007
CONFERENCE ROOM A
7:00 P.M.

The Gilford Planning Board met in regular session on Monday, November 19, 2007 at 7:00 p.m. in Conference Room A.

In attendance were: Chair, Polly Sanfacon; Vice-Chair, Carolyn Scattergood; Selectmen's Representative, Connie Grant; and Regular Members: Jerry Gagnon; Richard Waitt; Richard Vaillancourt; and John Morgenstern.

Member(s) absent: Alternate David Arnst.

Also present was John B. Ayer, Director of Planning and Land Use and Stephanie Verdile Philibotte, Administrative Assistant.

Chair P. Sanfacon opened the meeting, led the Pledge of Allegiance, introduced the Board members, and staff and read the rules of procedure for the meeting.

P. Sanfacon introduced the first application.

Jack and Charlotte Landow and MATJRM II, LLC

Applicants are proposing a Boundary Line Adjustment to transfer 8,017 square feet from Tax Map & Lot #212-016.001 to Tax Map & Lot #212-016.002 located at 24 Farm View Lane in the Single Family Residential Zone. Boundary Line Adjustment Plan. Application #2005002572

Motion made by R. Waitt, seconded by C. Scattergood, to accept the application as complete. Motion carried with all in favor.

Jack Landow, representing the application, gave a brief presentation to the Board. He explained the property line is at an angle heading toward the neighbor's house and they are proposing to shift the property line to straighten it and provide more privacy for his property.

P. Sanfacon opened up the hearing for public input. There being none, she closed the public hearing.

The Board discussed the option of approving the application at this point in the meeting in order to allow the applicants to hear the decision without having to wait through the other agenda items.

Jack and Charlotte Landow and MATJRM II, LLC

Motion made by C. Scattergood, seconded by R. Waitt, to approve the application as submitted. Motion carried with all in favor.

P. Sanfacon introduced the next case.

Catherine Gagnon Revocable Trust

Applicant is proposing to add two 12' x 16' decks to two existing cabin units at "White Sands Cottages" on Tax Map & Lot #223-096.000 located at 109 Weirs Rd. in the Resort Commercial Zone. Amended Site Plan. Application #2005002573.

Motion made by C. Scattergood, seconded by R. Waitt, to accept the application as complete. Motion carried with all in favor.

Steve Smith, representing the application, gave a brief presentation to the Board. He explained the location of the site to the Board and the proposal is to add two (2) decks to two (2) existing cottages. He said the decks would be conforming to the setbacks even though the cottages are not conforming to setbacks.

P. Sanfacon spoke about the discussion at the Site Study meeting about screening the two dumpsters and having the applicant submit an as-built plan upon completion of construction of the decks. S. Smith said one of the dumpsters located in the front of the property was temporary due to recent construction on site. The existing dumpster on site does have some landscaping around it. He would accept a condition of approval requiring the submission of an as-built upon completion of the decks.

J. Ayer explained the Town of Gilford considers decks as pervious surfaces when calculating lot coverage because they have the potential to become covered porches. Even with the decks added, the proposal does not exceed the coverage requirements.

P. Sanfacon opened up the hearing for public input. There being none she closed the public hearing.

P. Sanfacon introduced the next case.

Donald Ames C/O Ames Farm Inn

Applicant is submitting an as-built plan/amended site plan for review on Tax Map & Lot #266-107.000 located at 2800 Lakeshore Rd. in the Single Family Residential Zone. Amended Site Plan Review. Application #2005002438.

Motion made by R. Waitt, seconded by J. Morgenstern, to take the application off the table.

Discussion on the motion.

The Board discussed whether or not to discuss the application because of the pending court case the Town has brought against the applicant. S. Smith said he had discussed the status of the application with the Town Administrator and was advised the application could continue through the Planning Board process. R. Dyer, attorney representing the application, also said he spoke

to Town Counsel who agreed the application could continue through the Planning Board process.

P. Sanfacon called for a vote on the motion. Motion carried with all in favor.

Steve Smith, representing the application, gave a brief presentation to the Board. He discussed recent information and opinions from the Town of Gilford and Town Counsel that determined the site plan that was approved in 1988 is the site plan of record. S. Smith said that not all of the conditions of approval were met from the original site plan approval because the applicant did not receive a variance from the ZBA, however, that is what the Town of Gilford considers to be the approved site plan of record. S. Smith explained he is asking the Board to recognize the 1988 plan is the plan of record and he will then explain the changes to the site since then with a revised and marked up site plan he has prepared.

Attorney S. Nix, representing his mother who is an abutter, cautioned the Board about accepting this plan due to information that has yet to be presented to the Board.

S. Smith reviewed changes to the plan that have taken place since 1988. He began explaining one change was a bridge installed over the brook that runs across the property line. He said he believes the abutter, Mr. Shank, installed it. He discussed the retaining wall that was installed and he said it was built to prevent erosion into the lake and there are permits pending with the NHDES relating to it. He showed the Board gravel areas utilized to access boat storage areas, the addition of the basketball court and a boat wash and boat service area. He said boat washing and repairs were designated to be in one area because of the request by the NHDES. S. Smith said there was always boat washing and repairs on site and does not consider that to be a new use. He explained the gas tank shown on the old plan had been removed because the applicant decided to not sell gas on site. He spoke about the time frame when the wetlands standards changed in the late 1980's or early 1990's, which is why wetlands were not shown on the 1988 plan. He said he has talked to Mr. Ames and confirmed they will not hold any public fishing derbies unless they come back to the Planning Board for a revised plan or they go through the Board of Selectmen for an Outdoor Special Events permit.

R. Waitt asked about the commercial boat and barge loading on the revised plan and noted it was not on the original plan. S. Smith said Watermark Marine Construction was storing boats and equipment on site and S. Smith told them to remove the construction storage areas and to only launch their construction barges from the site. He said he believes that use is grandfathered and it is included as a marina as they have been operating as a marina.

He continued by saying the applicant is interested in adding docks and is working with the NHDES to have the site properly classified. P. Sanfacon asked for clarification about the NHDES' role in the application. She asked if the NHDES is waiting for the Town of Gilford to approve the site plan as a marina in order for them to receive additional docks. P. Sanfacon noted, however, that the site does not meet the Town of Gilford's marina definition. She reviewed the letter written by Mr. Ames where he states emphatically that his site is not a marina. S. Smith said his client does not understand zoning and he should not be penalized and that the marina type uses have been going on for a long time.

R. Waitt asked why should ignorance of the law apply to Mr. Ames. S. Smith said his client should not be penalized for not understanding zoning.

The Board discussed the history of the site and Mr. Ames' not complying with the Town's requests to comply with the regulations regarding the fishing derbies and other uses. S. Smith agreed that was the basis for the Town of Gilford filing a lawsuit against Mr. Ames.

J. Ayer read the definition of a marina from the zoning ordinance and clarified the marina use has evolved from an incidental use to a principal use even based on the title of the plan prepared by S. Smith.

S. Smith said they meet the old definition of the marina because they are pre-existing non-conforming, he said they are not trying to be a marina under today's definition they want the Town of Gilford to classify them as a marina in order for them to receive approval from the NHDES for the additional 11 boat slips.

J. Ayer read section 9.2.2 of the ordinance regarding expansion of non-conforming uses.

Discussion ensued about the status of the non-conforming uses on site and the expansion of the uses on site. S. Smith said they are allowed to expand the non-conforming uses on site.

S. Smith reviewed the septic system history and discussed S. Morgan's research and the well is considered a non-transient system and it is registered with the NH Department of Health. He reviewed that other family members own the property and they will submit a letter with all the owner's signatures.

P. Sanfacon opened up the hearing for public input.

S. Nix, attorney representing himself as a neighbor and his mother who lives near the site, presented a packet of information and photographs showing how the site has changed over the years. He said the principal use on the site is a hotel/motel and it has been made very clear in the record by the Ameses that that is the main use of the site. He explained accessory uses may include the docks and ramps and by changing the use to a marina to become the primary use is not allowed under the zoning ordinance and by changing the use to a commercial marina they would need a variance. He reviewed the RSA's for an application to be considered one of regional impact and he believes the Planning Board should consider this application of regional impact. He reviewed the old plans against the new plans and the uses that are now shown on the plan but not on the original plan. He explained how one area of the site has been filled and how the topography elevations are different from the 1988 plan. He said before that area was filled they should have come before the Planning Board for approval. He reviewed his packet of information and photos for the Board. He reiterated the marine construction business is still operating on site as of today. He spoke about the septic system and referred to the RSA that requires any expansion to the site requires the septic systems to be reviewed and updated for loading purposes. He said the boat washing and service areas are probably not included with the existing system and the applicant is required by state law to update the septic systems. He said the marina use is not allowed in the zone and the Board should not allow it and require the

applicant to receive a variance.

Jim Belanger, abutter, discussed the use of the property in the 60's, 70's and 80's and that the site was a resort for families and there was no evidence of large amount of parking of boats and trailers. He does not agree with the classification of the site as a marina. He said the commercial marina uses have not been there all along and they should not be allowed to be considered a marina today.

R. Dyer suggested the application be tabled in order for the applicant to provide more information and respond to the information submitted by S. Nix and others. They are asking the Planning Board to table the application for 30 days.

P. Sanfacon referred to a letter written by an abutter, James Bright, echoing the concerns expressed over the expansion of uses to the property that have occurred over the years.

Susan Belanger, abutter, spoke about the changes to the site that have occurred over time. She spoke about the site being disruptive to the abutters now and it is no longer a family resort site. She spoke about the letters and cease and desist orders that have been ignored by Mr. Ames. She is asking the Board to not allow the site to continue to operate as it has been and require the site to be brought back to its original condition.

J. Ayer asked for a parking calculation to be completed and the Board should consider the status of the boat repair and boat washing area and how it is done outside and not inside a building, as this does not comply with the ordinance.

Mike Schneider, a resident of Alton, lives on the Town line between Gilford and Alton said he also has seen the changes to the site and the expansion of uses over the years without approvals.

P. Sanfacon closed the public hearing.

BUSINESS

Catherine Gagnon Revocable Trust

Motion made by C. Scattergood, seconded by R. Vaillancourt, to approve the application with the following condition(s):

1. Subject to any other federal, state, or local approvals which may be required.
2. Final as-built of site to be submitted when decks are complete.

Motion carried with all in favor.

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Don Ames c/o Ames Farm, LLC

Motion made by J. Morgenstern, seconded by R. Vaillancourt, to table the application until the December 17, 2007 meeting so the applicant can provide the Board with:

1. Any information addressing the issues raised at the public hearing by the Board, abutters and S. Nix to be submitted prior to the next meeting.

S. Smith was informed all information that the Board requested should be submitted to the Planning Department by the Thursday before the next Planning Board so it can be mailed in the member's packets.

Motion carried with all in favor.

Other Business

Discussion of 2008 Zoning Amendments:

a. Flag Lot amendment-J. Ayer reviewed the proposed changes to the ordinance that the Board discussed at the last meeting. The Board discussed preparing the zoning amendment for a public hearing.

b. Electronic changeable copy signs amendment-J. Ayer reviewed the proposed changes the Board discussed at the last meeting. The Board discussed preparing the zoning amendment for a public hearing.

c. Junk Cars- J. Ayer updated the Board on the RSA regarding junk cars and that enforcement may come under the Board of Selectmen and the Town of Gilford can use the state law for enforcement.

d. Increase shore front setback from 40' to 50' to match new RSA. J. Ayer explained only 4th order streams would be subject to the new proposed 50'. He is proposing to change the zoning to have 50' setback from any year-round brook to keep it consistent with the new 50' lake setback.

Minutes

Motion made by R. Waitt, seconded by R. Vaillancourt, to approve of the minutes from October 15, 2007 as presented. Motion carried with all in favor.

Motion made by C. Grant, seconded by R. Waitt, to approve of the minutes from November 5, 2007 presented. Motion carried with all in favor.

2008 Schedule for Planning Board

P. Sanfacon explained the February 4, 2008 Planning Board meeting had to be changed to February 5, 2008 due to the Town of Gilford's Deliberative Session being scheduled for the 4th.

Motion made by R. Vaillancourt, seconded by C. Grant, to approve the 2008 meeting schedule as presented. Motion carried with all in favor.

J. Ayer spoke about the vending situation at Patrick's and the comments made by D. Andrade in 2001 about when an applicant needs to have a special event permit. J. Ayer said the applicants would not need to have a special event permit because it has been approved as a vending site and the Farmer's Market does not even need a vending permit because they do not qualify.

Adjournment

Motion made by R. Vaillancourt, seconded by J. Gagnon, to adjourn the meeting at 9:45 p.m.
Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Administrative Assistant