

Approved August 18, 2008
GILFORD PLANNING BOARD
MINUTES
Gilford Town Hall
CONFERENCE ROOM A
July 21, 2008

The Gilford Planning Board met in regular session on Monday, July 22, 2008, at 7:00 p.m., in Conference Room A. In attendance were Chair Polly Sanfacon; Vice Chair Carolyn Scattergood; Secretary Dick Waitt; Selectmen's Representative Connie Grant; Regular Members Jerry Gagnon, Richard Vaillancourt, and John Morgenstern; and Director of Planning and Land Use John Ayer. Absent were Alternate Member David Arnst and Administrative Assistant Stephanie Verdile Philibotte.

Chair Sanfacon called the meeting to order and led the Pledge of Allegiance. She noted that there were no public hearings on the agenda, but only a discussion of possible zoning amendments for 2009. She then turned the time over to Director Ayer.

Discussion

Mello – Voluntary Lot Merger

Director Ayer indicated that there was another discussion item he would like to address before getting into the zoning ordinance amendments so the matter is not overlooked later in the meeting. He had a request from Mark and Maureen Mello for a voluntary lot merger at 10 Northview Drive. He explained that the property owner thought the lots were already merged when they bought them and that they wanted to build a house in the middle of the property so they needed them merged. He said there are no existing buildings on either parcel and the lots together total over 1.4 acres. Dick Vaillancourt moved to authorize Chair Polly Sanfacon to sign the authorization for the lot merger. Jerry Gagnon seconded. The motion passed.

2009 Zoning Ordinance Amendments

Director Ayer introduced Barbara Aichinger of 554 and 558 Edgewater Drive on Governor's Island. She had written a letter to the Planning Board asking to be able to speak regarding a possible amendment of Section 9.1.1 regarding required merger of contiguous nonconforming lots held in the same ownership.

Ms. Aichinger handed out a multi-page document to the board as the basis of her presentation. A copy of the document may be found in her property files (Tax Map and Lot #221-007.000 and 221-007.001). Ms. Aichinger reviewed in detail her personal experience with automatic lot mergers, describing how the regulations and the practice have been confusing, unfair, and problematic to both property owners and the Town. She encouraged the Board to amend the zoning ordinance to fix the problems with the regulation.

John Morgenstern asked about the distinction between nonconforming lots and conforming lots

as noted in letters in Ms. Aichinger's packet from town attorney Tim Bates. A discussion ensued regarding Mr. Bates' letters.

Carolyn Scattergood discussed her recollections of the history of the Aichingers' lots. Ms. Aichinger offered clarification of some points and additional history. Further discussion ensued regarding the history of the Aichinger lots.

Chair Sanfacon said that it is not possible to amend the ordinance to look at individual situations. She said that it is the role of the Board of Adjustment to address the specific needs of individual properties.

Ms. Aichinger said that she feels existing subdivisions should not be required to merge automatically. John Ayer said that technically lots divided prior to the existence of the state's subdivision statutes and perhaps even those divided before the town adopted its own subdivision regulations, are not truly "subdivisions". They are considered lots of record. The statutes treat such lots differently and it may be an important distinction.

Jerry Gagnon said that some smaller lots may not be buildable because there is not adequate area for a septic system. Bringing sewer to a lot can make an otherwise non-buildable lot buildable, however, and the need to require merging may not be as great. Discussion ensued.

Ms. Aichinger thanked the Board for the opportunity to speak. Chair Sanfacon thanked Ms. Aichinger for her presentation and said the Board would take the matter under consideration.

Mr. Ayer reviewed his list of possible "Amendments in 2009", beginning with rezones to consider.

Possible Rezoning

- A. **Ames Farm Area (RC to SFR)** – Board members expressed concern that this matter was still too volatile and should not be considered for another year.
- B. **Lily Pond Road/Lakeshore Road intersection (I to C)** – Board members agreed that this was a worthwhile rezone and directed Mr. Ayer to move forward with it. Mr. Ayer said he would prepare a rezone map for the next meeting on this.
- C. **Lakes Business Park (Gilford Avenue frontage from SFR to I)** – Mr. Ayer noted that only a small portion of Lakes Business Park is not zoned Industrial. Having the Gilford Avenue frontage portion of the Park zoned Single Family Residential caused a minor problem earlier this year when the Park directors wanted to install a sign at the entry to Hounsell Avenue. Board members noted that this may not be pressing enough to bring forward this year as the benefits may be minimal at this point when compared to the impact of voters having to consider too many ballot questions. Mr. Ayer said that he would prepare a map anyhow prior to a final determination.
- D. **End of Blaisdell Avenue (I to C)** – Mr. Ayer said this is the site where Home Depot was to build. They were required to obtain a special exception for a retail use because the

land is zoned Industrial. This is clearly a retail area and it makes sense to rezone it Commercial. Board members agreed and said to move forward with it. Mr. Ayer will prepare a rezone map of the property and contact the property owner.

- E. **Old Lakeshore Road & Breton Road Area (C to LR)** – The Board determined to not pursue rezoning this area.
- F. **Kimball Road Area (I to RC or SFR to RC/LR)** – The Board determined to not pursue rezoning this area either to create a zone buffer or to change development potential of any properties. It was suggested, however, that if an individual property owner brought forward a request or petition with a compelling reason to rezone all or a portion of this area, they would consider the proposal.

Possible Text Amendments

- ‡ **Flag Lots** – Mr. Ayer reported that he had sent a request to attorney Walter Mitchell for a clarification regarding what appeared to be conflicting legal opinions from himself and attorney Laura Spector of his office regarding the Town’s existing Section 5.1.2(d), but hadn’t yet heard back. The matter would be discussed once the clarification was provided.
- ‡ **Special Exceptions** – Mr. Ayer said that this is in part a proposal to reduce the number of special exceptions by making them permitted uses to reduce the work load on the ZBA and to reduce unnecessary red tape that applicants are required to go through. It is, in a more broad sense, a review of the uses permitted throughout the town to determine any appropriate changes. Discussion ensued regarding the vast number of changes proposed and the difficulty of making so many changes while not overwhelming voters. Jerry Gagnon recommended reviewing the uses by type and trying to tackle only a few each year. Board members agreed to review the Commercial Uses only for the next meeting.
- ‡ **Slope Excavation** – Mr. Ayer explained that developers often excavate property to create buildable lot area. The Town currently has no restriction on this. Jerry Gagnon said that he agrees something needs to be done to regulate how much land may be excavated by a developer who is trying to create buildable lot area to subdivide lots. Mr. Ayer read the existing definition of Steep Slopes in the zoning ordinance and suggested inviting surveyors Steve Smith and Dean Clark to discuss the concept with the Board. The Board agreed. Mr. Gagnon said he thought there is a statutory limit on such excavations.
- ‡ **Parking Requirements** – Director Ayer said that this amendment is a proposal to reduce the minimum required parking ratios and empower the Planning Board to allow reductions under certain conditions. Carolyn Scattergood said she did not think there was a significant problem with the parking ratios. Mr. Ayer said that there have been three (3) variances sought and two (2) granted in the past couple years. Dick Vaillancourt noted the overabundance of parking at the Lowe’s development as an example of the parking requirements being too high. The Board determined that because there was not a pressing or urgent need to address this issue, they would review the parking requirements another year.
- ‡ **Establish Wetlands Setbacks** – Mr. Ayer said that this was a matter considered by the Board

in years past, but concerns were raised that there are already numerous restrictions on developing land and to add another seemed unfair to property owners. Mr. Ayer said that as he has considered this matter, he thought that an appropriate standard may be to tie wetland setbacks to a lot's slopes so there was a give and take and to lessen the adverse impacts on property owners. The matter was discussed briefly. The Board determined to not move forward with a wetlands setback ordinance at this time.

- | **Sign Regulations** – Director Ayer described some of the recent problems with the sign ordinance and suggested that in some cases clarification was needed, while in others a complete deletion of the provision in the sign ordinance was necessary. He reviewed, as an example, the provisions of Section 8.2.1.5(d) which says off-site signs are not permitted except under certain conditions. The conditions are very specific but not well written, and apparently because of their vagueness have recently led to a sign being approved for Meadowbrook along the Route 11 side of the Airport within an easement. Mr. Ayer said that if this sort of thing is allowed to continue, the town would likely see sign easements granted throughout the town with billboards and other off-site signs springing up all over. The proposal would strike out all of Section (d) after “Offsite signs, except”, thereby not allowing offsite signs within rights-of-way, and insert in its place a reference to all of the sections elsewhere in the sign ordinance which already allow specific offsite signs under specific circumstances. These sections include 8.4.10, 8.6, 8.8.4, 8.8.6, and 8.8.7.

Director Ayer also cited provision 18 of Table 8.12 which appears to allow changeable copy signs to have an area equal to as much as 30% of all the signs allowed on a lot, not just 30% of the sign of which it is a part. This amendment would specify that a changeable copy sign could only constitute 30% of a freestanding sign if it is part of a freestanding sign, or 30% of a wall sign if it is part of a wall sign, etc. The proposal provides two (2) examples of how to calculate the sign's size. Jerry Gagnon suggested providing the formula for the calculation also. John Ayer will provide a revision incorporating the suggested changes.

The third sign issue Mr. Ayer presented was a revision of the definition for a sign so it excludes signs used solely as decoration or ornamentation such as antique signs on residences. Carolyn Scattergood mentioned it may also be good to have a limitation on the amount of such signage one may have. The Board determined to move forward with all three proposed sign ordinance changes.

- | **Wind Turbines** – With the recent and significant increase in fuel prices, many people are expressing interest in wind turbines. The Town currently has no regulations to govern them. Director Ayer said that an ordinance should establish regulations for wind turbines and other alternative energy sources. A discussion ensued regarding the details of wind turbine regulations, including shadow flicker, setbacks, heights, and noise from the turbine's generator. John Morgenstern said we should seek input from the town's new Energy Committee. He would also like to know if there are existing regulations that allow and/or restrict wind turbines. The Board members agreed that this appeared to be a two-year project which could not be placed on the ballot this next year, that we should make sure our ordinance is complete and well written, and that we seek the input of experts in the field.

OTHER BUSINESS

John Ayer reviewed the home office worksheet for Clark & Reid trucking company at 1 Northview Drive where the applicant says on the worksheet that he will have a sign, but stated verbally it would only be the business's name on the mailbox. Board members said they did not see this as a violation of the provision prohibiting signs for home offices. They did, however, express concerns about the use and recommended that Director Ayer advise the Town Clerk about the issues pertaining to the business's vehicle registrations.

Minutes

Chair Sanfacon and John Morgenstern both said that they thought there were significant problems and corrections needed for both sets of minutes (June 16, 2008 meeting and July 7, 2008 meeting) and that they would need to review them with staff before they should be taken up by the Planning Board. Carolyn Scattergood agreed saying that the minutes state that "all were in favor" in the vote regarding the sale of the Library's Potter Hill lot, but she did not vote on that item because she was substituting as chair at the time.

ADJOURNMENT

Dick Vaillancourt moved to adjourn the meeting at 9:05 p.m. Jerry Gagnon seconded. Motion passed.

Respectfully submitted,

John B. Ayer, AICP
Director of Planning and Land Use