

**MINUTES
GILFORD PLANNING BOARD
APRIL 20, 2009
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Planning Board met in regular session on Monday, April 20, 2009 at 7:00 p.m. in Conference Room A at the Gilford Town Hall.

In attendance were: Vice Chair-John Morgenstern, Selectmen's Representative-Kevin Hayes, Regular Members: Richard Waitt and Richard Sonia and Alternates: Dennis Corrigan, Carolyn Scattergood, and Andy Garfinkle.

Member(s) absent: Chair-Polly Sanfacon, Regular Member(s) Richard Vaillancourt and Jerry Gagnon and Alternate(s) David Arnst and Wayne Hall.

Also present were John B. Ayer, Director of Planning and Land Use, and Sandra Bailey, Temporary Scribe.

J. Morgenstern led the Pledge of Allegiance. He introduced Board members, staff and read the rules of procedure. He designated Alternate(s) to fill in for Regular members as follows: Dennis Corrigan for Richard Vaillancourt, Carolyn Scattergood for Jerry Gagnon and Andy Garfinkle for Polly Sanfacon.

J. Morgenstern introduced the first application.

1. **Cherry Valley Condominium Association**

Applicant proposes to repair, upgrade and expand parking and repair and upgrade the drainage on Tax Map & Lot #254-095.000 located at 663 Cherry Valley Road in the Resort Commercial Zone. Amended Site Plan Review. File #2009003383.

J. Ayer said the application could be accepted as complete.

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

Bill Stack of Steve Smith & Associates, representing the application, gave a brief presentation to the Board. He explained the proposed renovations and expansions to the parking lot. Currently, only one side of the parking lot can be used and widening it will gain parking on both sides. Mr. Stack also explained the details of the existing drainage system. Because the septic system is no longer in use, they are able to sheet water onto that area. Overall, this plan is a much better design than the original system, which has been in existence since 1971.

J. Morgenstern opened the hearing for public input. Being none, he closed the public hearing at 7:12 p.m.

J. Morgenstern introduced the next application.

2. Theodore Bolotin, Theodore Bolotin Children's Trust, Erikas Napjus

Applicants propose a Boundary Line Adjustment to transfer ten (10) acres of land from Tax Map & Lot #264-007.000 and Tax Map & Lot #266-009.001 to Tax Map & Lot #266-013.000. The properties are located at 874 Cherry Valley Road, 52 Trailview Drive and 56 Trailview Drive in the Natural Resource Residential Zone and Single Family Residential Zone. Boundary Line Adjustment Plan Review. File #2009003385.

J. Ayer said the application could be accepted as complete.

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

Steve Smith, representing the application, gave a brief presentation to the Board. This property is located in Gunstock Acres. Mr. Smith showed Board members two plans – one with the existing lot lines and one with the proposed lot lines. This is a boundary line adjustment so it is not creating any new lots. In addition, ten acres will remain in current use.

Mr. Smith further explained the area being transferred does not include the buildable area since it is too steep. He also advised the Board he would need to finish his survey of the lot and show monuments of where the proposed house will be. He was not able to complete this portion of the survey because of snow. D. Corrigan questioned the reason for this boundary line adjustment and Steve Smith replied the Napjus property owner would like additional property to serve as a buffer and protect his views.

J. Morgenstern opened up the hearing for public input. Being none, he closed the public hearing at 7:19 p.m.

J. Morgenstern introduced the next case.

3. Waldo Peppers/WJK Realty Corp.

Applicant proposes to reduce seating per approved site plan from 100 to 66 seats, add three (3) outdoor picnic tables to seat 18 and a takeout window for ice cream only. Applicants also propose to have a vendor plan for Motorcycle week only on Tax Map & Lot #201-019.000 located at 1457 Lakeshore Road. The property is located in the Commercial Zone and the Aquifer Protection Overlay District. Amended Site Plan Review. File #2009003386.

J. Ayer said the application could be accepted as complete.

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 that although there is one application, it covers two separate proposals. He would like to review each proposal separately, beginning with the Site Plan amendments. The applicants would like to modify the plan with a takeout window for ice cream only and add three picnic tables to the outdoor area. Mr. Smith pointed out that the Police Department recommended moving the takeout parking spaces away from the entrance area, due to possible traffic congestion issues. In response to this request, they have moved the parking space to another area. He further stated that that parking is adequate since they require 34 spaces and have 43 spaces total.

Steve Smith also pointed out that the landscaping of the property was discussed at the Site Study meeting. He suggested that approval for this plan could be contingent upon completing the landscaping. He also pointed out that the Building Inspector and Fire Department will need to review the proposed plans.

Brief discussion ensued on the “plane” which is to be located on the property. J. Ayer read the definition of a structure from the Zoning Ordinance and based on this definition, the plane and proposed picnic tables are not structures

J. Morgenstern opened up the hearing for public input. Being none, he closed the public hearing at 7:30 p.m.

Steve Smith then provided an explanation of the proposed Vendor Plan for Motorcycle Week only. He explained that going through the restaurant could only enter the proposed food tent. In response to Fire Department recommendations, there will be a 20’ fire lane and pedestrian access around the tent, which will eliminate two parking spaces during Motorcycle Week.

Mr. Smith also stated they are willing to set out pins to depict the location of the vendor space. In addition, all vendors would be required to receive a Vendor Permit from the Department of Planning and Land Use and have Fire Department approval. D. Corrigan inquired if the Police Department has reviewed the plan. J. Ayer replied yes, they suggested the takeout parking be moved away from the entrance of the parking lot. D. Corrigan further expressed concern with the possible traffic issues that could occur on Route 11. J. Ayer replied that Route 11 is a State road and the Town does not have control over it. He also pointed out that the previous business at this location was approved for vendor space and had a much more intense vendor use than that being proposed by Waldo Peppers.

J. Ayer also brought up the matter of having approval from PSNH since the vending space is located within their easement area. Steve Smith does not think that PSNH will have any problem with this matter for Motorcycle Week only. J. Ayer suggested that a condition of approval could be that the Vendor Plan is for Motorcycle Week only.

J. Morgenstern opened up the hearing for public input. Being none, he closed the public hearing at 7:38 p.m.

J. Morgenstern introduced the next application.

4. **Andrew and Martina Howe**

Applicants propose to add refrigeration shed, finish wrap-around porch, add vendor space and future pavilion/barn, move service driveway, and an addition to maintenance building on Tax Map & Lot #224-020.000 located at 245 Intervale Road in the Resort Commercial Zone and the Aquifer Protection Overlay District. Amended Site Plan Review. File #2009003387.

J. Ayer said the application could be accepted as complete.

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

A. Howe, representing the application, gave a brief presentation to the Board. He stated that he has no intention of changing the primary use of property, which is agriculture. Any activities on the property will relate directly to agriculture or be an accessory use to it. Mr. Howe also elaborated on possible new federal regulations regarding the processing of food, which in this case means the cleaning of food. It is their intention to remove all walk-in coolers and freezers and place them outside under the timber frame pavilion style structure. The underground propane tank will be moved, subject to fire code regulations. Overall, this change will make the operation of the walk-ins much more efficient.

A. Howe continued with his presentation, stating their intention for the continuation of the wraparound porch. Also, he pointed out that their greenhouse was lost last year due to snow load and this pavilion /barn area is for future development to accommodate vendors and outdoor displays. The gravel driveway at the north end of the site will be moved approximately 20' to the north for large trucks and busses that enter the property. An outdoor pen area for animals will also be moved and enlarged. Mr. Howe further reviewed some of the recommendations made at the Site Study meeting that he will incorporate into the final plan.

Kevin Hayes inquired if the fuel tank is above ground? Andy Howe replied yes. Brief discussion ensued on the current and proposed locations of the animal pen, as well as the proposed increase in its size.

J. Morgenstern opened up the hearing of public input. Being none, he closed the public hearing at 8:00 p.m.

J. Morgenstern introduced the next application.

5. **McGinley Development, Inc.**

Applicant proposes to convert first floor of existing Post Office to medical offices on Tax Map & Lot #210-010.002 located at 22 Sawmill Road in the Professional Commercial Zone and the Aquifer Protection Overlay District. Change of Use Plan Review. File #2009003388.

J. Ayer said the application could be accepted as complete.

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

Jeff Lewis, agent representing the application, gave a brief presentation to the Board. He stated that the purpose of this plan is to change the first floor of the building from the Post Office to medical offices. The parking calculations were based on the post office use, and this proposed change would require 25 spaces. The plan shows 36 spaces so there is no problem with compliance. Brief discussion ensued on possible issues that may arise since the building has no elevator. J. Ayer pointed out that the elevator issue would be addressed with the building and fire codes. The primary issue with a change of use is to make sure there is adequate parking. More discussion ensued on the shared parking that will exist between the building and the hotel. J. Ayer stated that the plan needs signature blocks added to it.

J. Morgenstern opened up the hearing of public input. Being none, he closed the public hearing at 8:09 p.m.

J. Morgenstern introduced the next application.

6. McGinley Development, Inc.

Applicant proposes a Boundary Line Adjustment between Tax Map & Lot #210-010.002 and Tax Map & Lot #210-010.003 located at 28 Sawmill Road in the Professional Commercial Zone and the Aquifer Protection Overlay District. Boundary Line Adjustment Plan Review. File #2009003389.

J. Ayer said the application could be accepted as complete.

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

Jeff Lewis, agent representing the application, gave a brief presentation to the Board. J. Ayer pointed out that there are some plan details that need to be changed or added and they must be addressed by the applicant. The proposed boundary line adjustment is between Lots 2 and 3 and Mr. Lewis stated that the purpose is to accommodate the layout for buildout on Lot 2.

One issue on this proposed plan is the reduced frontage of Lot 3 on the Sawmill Road cul-de-sac. The proposed plan will allow Lot 3 to have 74 feet of actual frontage, where 100 feet is required. The Zoning Ordinance does allow the decreased frontage if the front setback is increased. Other minor plan corrections were also discussed, including a note indicating steep slopes on Lot 2.

J. Morgenstern opened up the hearing of public input. Being none, he closed the public hearing at 8:20 p.m.

J. Morgenstern introduced the next application.

7. **McGinley Development, Inc.**

Applicant proposes a Commercial Cluster development including three (3) separate buildings for medical/professional offices on Tax Map & Lot #210-010.002 located at 22 Sawmill Road in the Professional Commercial Zone and the Aquifer Protection Overlay District. Site Plan Review. File #2009003390.

J. Ayer said that his Staff Report indicates that the application is not complete. However, significant issues have been addressed since that was written. Jeff Lewis stated that he has made many revisions and has prepared a rendering of the proposed buildings. He feels that this new information completes the application and is hopeful that the Board will move forward.

C. Scattergood commented on how an application can be considered to be complete when the plan has additions and corrections to be made on it. She is confused with this – is it the completeness of the plan? J. Morgenstern stated it is the degree of completeness. D. Corrigan expressed concern with accepting this application if the plan is not complete. This resulted in extensive discussion on whether or not the application should be accepted as complete. R. Waitt pointed out that if the application is accepted, the plans are subject to review, recommendations could be made and the applicant would need to return with those changes.

J. Morgenstern asked J. Ayer to review the issues addressed at the Site Study meeting.

Motion made by K. Hayes, seconded by R. Waitt to accept the application as complete, subject to further review. D. Corrigan abstained. Motion carried.

Jeff Lewis, agent representing the application, gave a lengthy presentation to the Board. He showed the original approved site plan, which indicates the Post Office Building as Phase 1. Phase 2 has not yet been built. Mr. Lewis stated that NH DES Alteration of Terrain Permit has been approved and even though the orientation for the proposed buildings has changed, the same original design of the lot exists. He reviewed multiple sheets within the proposed plans and pointed out that the landscaping plan has been supplemented.

Mr. Lewis then focused on the proposed retaining wall at the rear of the property. He stated that they have an alternative to this retaining wall and are looking at using reinforcement mats on the slopes for vegetative growth. This alternative has a low potential for erosion and is a better alternative than using rip rap. Further discussion ensued on the parking calculations, phase lines and driveway access.

J. Ayer pointed out that the slopes are steeper than those allowed in the subdivision regulations. He would like to hear the concerns of the Fire Department on this matter and suggested the possibility of a waiver or returning to Site Study. The matter of the 20' wide access around all buildings, unless they are sprinkled, was discussed. J. Morgenstern asked if the landscape plan now meets the Town's requirements. Jeff Lewis replied that it is their intent to comply with the requirement for trees and more trees could be placed in front of the lot. He also intends to have the lighting compatible with the rest of the development.

The building renderings were briefly discussed. Mike McGinley stated that they are pleased with the style and color of the proposed buildings.

J. Ayer questioned the location of the drainage swale. Jeff Lewis replied that it is their intent to have shared drainage and follow the NH DES approval of the Alteration of Terrain Permit. The swale is a temporary solution until the other building is constructed. J. Ayer also pointed out that the Ordinance requires a 15 foot setback for parking. However, if a shared parking agreement exists then the setback is not an issue.

J. Morgenstern opened up the hearing for public input. Mark Woglom of Opechee Construction stated that he has several concerns with the proposed plan, all of which he gave to Mike McGinley last week. Among the issues he pointed out are having the building plans be part of the plan set, showing electric service and transformers, non-compliance of parking requirements, the intensity of development, potential easements, landscaping, the retaining wall and steep slopes. Mr. Woglom is in favor of this development because it will be beneficial for the hotel that is currently being constructed, but he is also concerned with how the phasing plan will work. What would happen if several years pass between the phasing?

Mr. Woglom also thinks that the NH Alteration of Terrain Permit will need to be amended. Also, dumpsters should be screened and construction access should only occur through the rear access, not the hotel access. It is not known if the proposed buildings will be condominiums or rentals.

Jeff Lewis stated that the comments made by Mr. Woglom can be addressed and it would be prudent for them to go back to the Site Study Committee. Further details of the phasing plan can be provided. Mr. Lewis feels that Mr. Woglom has raised some good points and they have no problem with compliance so that the project can move forward. J. Ayer read aloud the portion on the Ordinance on shared parking. If an agreement is in place, vehicles can be parked up to the property line.

Being no further questions or comments, he closed the public hearing at 9:23 p.m.

BOARD DELIBERATIONS

Cherry Valley Condominium Association, Amended Site Plan

Motion made by R. Waitt, seconded by K. Hayes, to conditionally approve the Amended Site Plan Application with the following condition(s):

1. Subject to the applicant obtaining any other federal, state or local approvals that may be required.

Motion carried with all in favor.

Theodore Bolotin, Theodore Bolotin Children's Trust, Erikas Napjus, Boundary Line Adjustment Plan

Motion made by C. Scattergood, seconded by R. Waitt, to conditionally approve the Boundary Line Adjustment Application with the following condition(s):

1. Subject to the applicant obtaining any other federal, state or local approvals that may be required.

Motion carried with all in favor.

Waldo Peppers/WJK Realty Corp. Vendor Site Plan

Motion made by D. Corrigan, seconded by K. Hayes, to conditionally approve the Vendor Site Plan Application with the following condition(s):

1. The applicant shall obtain authorization from PSNH to create these areas within the PSNH easement prior to the plan being signed by the Planning Board Chair;
2. The tent area and vendor spaces shall be monumented on the ground by a surveyor prior to erecting any tent or setting up any vendor areas;
3. A twenty (20) foot area around the food tent shall be kept clear of obstructions, vehicles and vehicular access;
4. The approval is granted for Motorcycle Week only;
5. No food may be served in vendor tents;
6. The public must enter the food tent through the restaurant
7. The applicant shall obtain any other federal, state or local approvals that may be required.
8. All conditions must be noted on the plan.

Discussion on the motion.

D. Corrigan stated that he is still concerned with traffic issues with Route 11. J. Ayer pointed out that the Zoning Ordinance and Town Regulations are very clear and if the applicant complies with them, the Board's hands are tied regarding traffic issues on Route 11.

Motion carried with D. Corrigan abstaining.

Waldo Peppers/WJK Realty Corp. Amended Site Plan

Motion made by C. Scattergood, seconded by D. Corrigan, to conditionally approve the Amended Site Plan Application with the following condition(s):

1. Landscaping shall be installed in the front entry area of the building prior to any permit being issued for construction of the service window or any picnic tables being placed on the site.
2. The applicant shall obtain any other federal, state or local approvals that may be required.
3. All conditions must be noted on the plan.

Motion carried with all in favor.

Andrew and Martina Howe, Amended Site Plan

Motion made by D. Corrigan, seconded by R. Sonia, to conditionally approve the Amended Site Plan Application with the following condition(s):

1. The plan shall be corrected to label Intervale Road and to provide the correct signature blocks.
2. The Planning Board prior to issuance of building permits shall approve building elevations.
3. The applicant shall obtain any other federal, state or local approvals that may be required.
4. Location of the portable animal barn corrected.
5. Verification the fuel tank does not require encasement.

Discussion on the motion.

C. Scattergood asked about building elevations being approved after the amended site plan approval – what is the procedure? J. Ayer replied this has previously been accomplished as a discussion item on the Board’s agenda. Mr. Howe would bring in his plans for Planning Board review and if they were not satisfactory, Mr. Howe would need to make revisions. J. Ayer also reminded the Board this site plan is for agricultural use, and that is not typically reviewed.

K. Hayes would like the location of the portable animal barn corrected. He would also like to verify that the fuel tank does not require encasement. D. Corrigan and R. Sonia agreed to add these to the motion for approval.

Motion carried with all in favor.

McGinley Development, Inc., Change of Use Plan

Motion made by R. Sonia, seconded by C. Scattergood, to conditionally approve the Change of Use Application with the following condition(s):

1. Subject to the plans being corrected to include signature blocks.
2. The applicant obtaining any other federal, state or local approvals that may be required.

Motion carried with all in favor

McGinley Development, Inc., Boundary Line Adjustment
McGinley Development, Inc., Site Plan Review

R. Waitt stated that there are many unresolved issues with McGinley Development’s Items 6 and 7. He moved to table the Boundary Line Adjustment Plan and Site Plan Review to May 18, 2009. D. Corrigan seconded. J. Ayer pointed out that these plans can be reviewed again at the May 11, 2009 Site Study meeting.

Motion carried with all in favor

Minutes –Motion made by R. Sonia, seconded by R. Waitt, to approve the minutes from April 6, 2009 meeting, with the following correction: On Page 2 under Astoria Properties, add in the following sentence after “He said that Town Counsel had reviewed the suggested motion and had no issue with it”: “Town Counsel also had no issue with the condominium documents he reviewed”. Motion carried with all in favor. C. Scattergood abstained.

Other Business - J. Ayer suggested a presentation on workforce housing at the meeting on May 4, 2009, from a representative from the NH Housing Finance Authority. He will make the arrangements.

Adjournment – Motion made by R. Sonia, seconded by C. Scattergood, to adjourn at 10:00 p.m. Motion carried with all in favor.

Respectfully submitted,

Sandra Bailey
Temporary Scribe