

**MINUTES  
GILFORD PLANNING BOARD  
JUNE 15, 2009  
CONFERENCE ROOM A  
7:00 P.M.**

The Gilford Planning Board met in regular session on Monday, June 15, 2009 at 7:00 p.m. in Conference Room A in the Gilford Town Hall.

In attendance were: Chair Polly Sanfacon; Selectmen's Representative Kevin Hayes; Regular Members: Jerry Gagnon, Richard Vaillancourt, Richard Waitt, and Richard Sonia. Alternates: Wayne Hall and Dennis Corrigan.

Member(s) absent: Vice Chair John Morgenstern, Alternates Carolyn Scattergood, Andy Garfinkle and David Arnst.

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

P. Sanfacon led the Pledge of Allegiance, introduced Board members and staff and read the rules of procedure. She explained it is the Board's policy to not do business past 10:00 pm. She explained they may not get through the entire agenda

P. Sanfacon appointed Alternate, D. Corrigan to sit in the place of absent Regular Member, John Morgenstern.

J. Ayer explained the School District's application is a public hearing, but not a formal application that the Board will be accepting as complete or voting on, but it is a public hearing and the public will have the opportunity to speak.

P. Sanfacon introduced the first application.

1           **Gilford School District SAU #73**

Applicant proposes to construct athletic fields, parking lot, concession building, bleacher seating, walkways, irrigation system, and drainage system on 17 acres of approximately 62 acres total area, and impact 12,398 square feet of wetlands. Site is located at 263 and 267 Intervale Road on Tax Map and Lot #224-018.000 and 224-018.001 in the Resort Commercial Zone and Aquifer Protection District. Government Site Plan Review. File #2009003514.

Sue Green, School Board and Meadows Committee Member, gave a brief presentation to the Board. She explained they are looking to develop five (5) athletic fields that include: soccer, football, lacrosse, softball and t-ball, a practice field and a multi-purpose field. She said she has a study from 2002 Gilford Gala survey. That study revealed the need for athletic fields and they are currently looking at completing a revised study. She said there

is a demand on the existing fields so they are looking to create more fields.

Paul Fluet, agent representing the application, gave a brief presentation to the Board. He reviewed the location of the fields and the wetland impacts. He said the total wetland impacts, including permanent and temporary, will be about 12,000 square feet of impacts. He said the monitoring wells were installed in 2004 and 2005 and wells 1-7 are in the area of the development. He reviewed the boundary of the Prime Wetland as it is located to the proposed development and said the practice field is 500 feet away from the Prime Wetland. He said the storm water from the parking lot will be treated and they will also install a vegetated swale to handle the runoff. He explained the current plan has been downsized from previous plans and there is a reduction in the amount of fill and excavating that will take place. He said they are putting drains underneath the fields that will lead to the two (2) 48" pipes located at Route 11. He reviewed the proposed cutting and filling that will have to occur in order to install the drainage system. He said the NHDES Alteration of Terrain permit will not allow them to develop the entire site at once. In order for them to move into another phase, the previous phase has to be stabilized and seeded. So they will not be developing the entire site at once. He reviewed the monitoring well information from Jan, Feb, May and June from 2005. He reviewed the monitoring completed in May of 2006 done by Barry Keith, Wetland Scientist for the project.

He reviewed the process of designating the Prime Wetland and said there must be a "Function and Value" report on file with the Town of Gilford. He said there was discussion about Lake Winnepesaukee flowing back in to the Meadows. He reviewed the federal flood maps and said there are portions of the site in the flood plain and portions that are not in the flood plain. He said Lake Winnepesaukee is at 506' during the 100 year flood level and the fields are higher than that. He said the 48" pipes are located at 504' and there may be some flooding into the site but not all the way back to the athletic fields.

P. Sanfacon asked about phasing and P. Fluet said they cannot start another phase until the previous phase has been seeded and growing.

P. Fluet explained that run off from the site will be directed into underground storage tanks to be used for irrigation. Those tanks will be located around the concession stand, which is not located in the flood plain.

D. Corrigan asked how long the total time frame will be for the construction and what will the phasing do if there is a flood. PF said that any stockpiling of materials and loam have to be stored outside of the floodplain. He said it could be a few years before the entire project is complete. He said it will be difficult because some phases will overlap into another phase, i.e. the underground drainage system.

K. Hayes asked Sue Allen about the completion of the "fields need" study. S. Allen said the Meadows Committee is doing one now, she said the fields are not just for the school but also for Parks and Recreation Department and the rest of Town of Gilford.

K. Hayes asked if P. Fluet has taken into account any additional runoff from Route 11. P.

Fluet said he has not done an entire drainage study of the area for the project. K. Hayes asked if P. Fluet studied the box culvert from the Old Lake Shore Rd. Bridge as a factor for the flooding. P. Fluet said he thinks that contributes to the flooding of the area and that bridge should be taller. K. Hayes said that bridge is on the list to be repaired but not this year. K. Hayes asked about the changes that will take place in the gravel parking lot and if P. Fluet has made any designs to handle the runoff and sediment from the parking lot. P. Fluet said the area is more of a wet meadow and they are installing a water quality unit to help with runoff and changes in the parking lot over time. He said they may have to re-grade the parking lot once a year to keep the grade heading in the direction of the wet meadow area before the Prime Wetland.

D. Corrigan asked if they got the Army Corps permit yet and P. Fluet said no. They have submitted a Standard Dredge & Fill application to the NHDES and although that is administratively complete, it has not been approved yet. He said the Army Corps Engineers gets involved in the process after the NHDES has begun reviewing. He said he has met with them and has provided them with copies of the plan to prepare them for the application.

K. Hayes asked about the application of fertilizers and herbicides. P. Fluet said he will use low or no phosphate fertilizers.

W. Hall asked about the time frame and phases for the project. P. Fluet said they do not want to displace football so they will work around the football schedule.

P. Sanfacon asked if the NHDES has to approve the phasing changes if that happens. P. Fluet said yes they would involve the NHDES if there were any changes to the phasing and construction of the fields.

J. Ayer asked about the potential of Lake Winnepesaukee to flow back into the site and at what elevation that would occur. P. Fluet said it wouldn't happen because the 100 year flood level is 506'.

P. Sanfacon opened the hearing for public input.

Dick Derky, resident, Varney Point said this will increase the tax burden on the residents and is there a way to have a town meeting in order to be brought up to date.

Sue Allen, Meadows Committee Said the cost will not be passed onto the taxpayers and the fundraising will be for the creation and continued maintenance of the fields.

Jack Woodward- resident-asked about the process and what the next step is and who makes the final decision. S. Allen said it is the NDHES that has the final say in the plans. The taxpayers voted to accept the gift in 2000 from the vote at Town Meeting and the voters allowed the trust fund to move forward in 2008 at Town Meeting and that will allow the Meadows Committee to fundraise exclusively for the fields.

J. Ayer said residents can also write letters to the NHDES. He said the Conservation Commission has appealed the NHDES and have outlined their concerns in the appeal.

P. Sanfacon said the Board will not approve or deny this plan.

Terry Stewart-resident- said this project looks like it will cost a lot of money and asked how the process will be paid for. Tim Drew, Meadows Committee, said they will raise funds privately.

T. Stewart said they should have all the money available at once instead of raising money and starting a phase and then having to raise more money while the project sits unfinished.

K. Hayes said they should have an approved sedimentation and erosion plan in place that includes more than silt fencing.

P. Sanfacon closed the public hearing.

P. Sanfacon introduced the next application.

**Steve Gleeson**

Applicant is proposing to operate a Home Occupation for an excavation business at 150 Saltmarsh Pond Road located in the Natural Resource Residential Zone located on Gilford Tax Map & Lot #211-030.000. Home Occupation Plan Review. File #2009003515.

J. Ayer said the application is ready to be accepted as complete.

Motion made by J. Gagnon, seconded by R. Vaillancourt, to accept the application as complete. Motion carried with all in favor.

Steve Gleeson, property owner, gave a brief presentation to the Board. He said they were told they have to get Planning Board approval in order to use the building on site for the home occupation. He said the building was used as part of an excavation business for 23 years by the previous owner and either they never got approval or it was not required at the time.

J. Gagnon asked about outside storage. S. Gleeson said most of the time the equipment is at the job site and in the winter the vehicles will be stored inside or behind the building.

S. Gleeson said it is himself and one employee and they work from 6:45 am - 4:30 pm. One employee drives his own car to the project site and takes the dump truck to work in the morning. He said the dump truck is backed into the barn at night so they do not have to use the back up signals in the morning.

J. Gagnon wants the dimensions of the storage area to be outlined on the plan so the area is easier to enforce and they do not expand beyond what they are approved for.

J. Ayer explained S. Gleeson removed out of date fuel tanks and installed safer underground tanks.

P. Sanfacon opened the hearing for public input.

P. Sanfacon said a letter was received from Ron Bean, abutter, opposed to the application that will be kept in the record.

Linda Rooney-Clairmont- resident of Saltmarsh Pond- asked about commercial uses crossing into industrial use because there are large vehicles stored on site and repairs to large vehicles being made on site. She said she is concerned about the impacts this home occupation will have on the environment and the neighborhood.

S. Gleeson asked when the home occupation starts and added he has been living on-site since April. He spoke about the equipment being moved onto the site and explained that was during the initial move and clean-up of the property.

R. Bean- abutter, spoke in opposition to the proposed home occupation. He discussed another home occupation application submitted by Cal Dunn which was a similar use that was denied.

P. Sanfacon closed the public hearing.

P. Sanfacon introduced the next application. J. Gagnon recused himself. P. Sanfacon appointed Alternate W. Hall to replace J. Gagnon.

**Alan Beetle/Bertha Mae Enterprises, LLC**

Applicants are requesting a Revocation of an approved Site Plan for Bertha Mae Enterprises on Tax Map & Lot#223-414.000 located at 1934 Lakeshore Rd. in the Resort Commercial Zone. File #2009003324. *Tabled from the May 4, 2009 meeting.*

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

Catherine Broderick, attorney representing the application, presented information to the Board on the process of how to revoke a site plan.

K. Hayes asked if they revoke the existing site plan and the Board does not approve the subdivision, what the applicant would do. C. Broderick said they are aware they would not have a subdivision application if the revocation is not approved.

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

Motion made by R. Vaillancourt, seconded by R. Sonia, to authorize the Chair to sign the

“Declaration of Revocation of Site Plan Pursuant to RSA 676:4-a, to revoke the existing **Alan Beetle/Bertha Mae Enterprises, LLC** site plan approval for Tax Map & Lot #223-414.000. Motion carried with all in favor.

P. Sanfacon introduced the next application. J. Gagnon recused himself. P. Sanfacon appointed Alternate W. Hall to replace J. Gagnon.

**Alan Beetle/Bertha Mae Enterprises, LLC**

Applicants are proposing to subdivide Tax Map & Lot #223-414.000 into two lots of 1.31 and 1.25 acres, located at 1934 Lakeshore Rd. in the Resort Commercial Zone. Subdivision Plan Review. File #2009003322.  
*Tabled from the May 4, 2009 meeting.*

J. Ayer said the application has not been accepted as complete.

Motion made by R. Waitt, seconded by R. Sonia, to take the application off the table.  
Motion carried with all in favor.

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

Dean Clark, representing the application, gave an update to the Board. He explained the location and the proposal to subdivide the existing parcel into two lots.

K. Hayes asked about the access to the condominiums behind the site and if there are any plans to remove additional pavement. D. Clark said the condominiums have access off of Route 11 and Route 3 and they will not remove additional pavement on the site.

D. Clark clarified the exact acreage on the site and submitted a plan that reflects that acreage. Rod Dyer, attorney, for the applicant, reviewed lot coverage for the site and explained any future commercial use of the property must meet the current lot coverage requirements

Andrew Serrell, attorney for the abutter's to B Mae's, objecting to the submission of documents by R. Dyer and said these documents should have been submitted before the hearing as he has not had time to review the documents R. Dyer is submitting. He said the Board was clear in the past to not allow submission of materials at the public hearing.

R. Dyer said the condominium unit owners will not have any reduction in rights or uses of the property from this subdivision. He said there are some concerns from the unit owner's about the current views they have and he said there are no documents declaring views as a right and that should not be considered by the Board.

C. Broderick, explained easements are not excluded as buildable area so they are not inclusive of buildable area. She said B Mae's has to allow the 20' right-of-way to exist but there is no law that says the easement can be relocated. She cited case law that states easements should be reasonable and if the easement restricts the use of the property, the

easement can be moved but must still serve the parties involved.

Andrew Serrell, attorney for abutter's to B Mae's, he referred to the specific location of the driveway easement that is shown and described on a plan approved by the Board. He said because the driveway easement is specifically described it cannot be moved. He said if the Board approves the current subdivision, the lot with the pavement would violate the existing ordinance and he thinks the Board should not allow the approval of the subdivision with the condition that the pavement be removed. He discussed the existing blue stone area along Route 11B and does not feel a commercial use should be allowed to have blue stone because it will create dust and it is a dangerous precedent to set because future commercial uses would not have to comply with paved parking areas. He spoke about the fact that they are not entitled to another buildable lot and they need one acre of contiguous buildable area. He said the unit owners have a right to have the driveway to their land and since that driveway must remain, the lot will not have a contiguous buildable acre. He said the lot does not have a contiguous buildable acre and he referred to the 50' setback requirement that is in place for the Adder Hole Brook, which is a year round brook. He said that driveway cannot be relocated due to the setback requirement and said therefore, the applicants do not have a contiguous buildable acre. He urged the Board to not approve it is a subdivision with a buildable lot; it could be approved as a non-buildable lot.

P. Sanfacon opened the hearing for public input.

*John I missed this guy as I got a scale for Kevin hotel manager guy name?*

D. Clark, spoke about other commercial properties that have been approved with bluestone and the Board has not considered it pervious.

R. Dyer said if they come back to the Board with any other plan they would have to address all the issues made by Attorney Serrell as he believes they would be considered site plan issues, not subdivision issues.

P. Sanfacon noted the letter from an abutter requesting that no trees be cut down along the property line.

J. Ayer said they have never excluded land within the setback as not included as buildable area, only wet areas and steep slopes are areas considered not to be included in buildable area. He noted other businesses in the area that have gravel driveways and parking lots the Board has approved.

R. Dyer said there are no plans to move the driveway unless they are required to do so.

P. Sanfacon closed the public hearing.

P. Sanfacon introduced the next application. J. Gagnon resumed his spot on the Board.

**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 District and the Aquifer Protection Overlay Zone. Boundary Line Adjustment Plan review. File #2009003389. *Tabled from the May 4, 2009 meeting.*

Motion made by R. Sonia, seconded by R. Vaillancourt, to take the application off the table. Motion carried with all in favor.

Jeff Lewis, agent representing the application, gave an update to the Board. He said the application will be withdrawn.

P. Sanfacon announced the Boundary Line Adjustment application will be withdrawn.

P. Sanfacon introduced the next application.

**McGinley Development, Inc.**

Applicant proposes to consolidate two lots, Lot 210-010.002 and Lot 210-010.003, into a single 6.43 acre lot and create three (3) new pad sites pursuant to the provisions of Section 5.4.1, Commercial Cluster Development, of the Gilford zoning ordinance, at 22 and 28 Sawmill Road in the Professional Commercial zone. Subdivision and lot consolidation plan review. File #2009003516.

J. Ayer said the application is ready to be accepted.

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

Jeff Lewis, agent representing the application, gave an update to the Board. He said this plan will take the place of the Boundary Line Adjustment plan. He explained they want to consolidate Lot 210-010.002 and Lot 210-010.003 and create three new commercial pad sites. J. Lewis said now they want to remove Pad B and Pad C on the submitted plan and have the Board approve the location of Pad A at this time.

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

P. Sanfacon introduced the next application.

**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. Revised Site Plan Review. File #2009003390.

J. Ayer said the application is ready to be accepted.

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

Jeff Lewis, agent representing the application, gave an update to the Board. He explained they may change the slope area in the back and are looking to have the application tabled.

Motion made by R. Vaillancourt, seconded by K. Hayes to table the application until the July 20, 2009 meeting. Motion carried with all in favor.

P. Sanfacon introduced the next application.

**McGinley Development, Inc**

Applicant is proposing to create two (2) commercial condominium units within an existing two- (2-) story building on Pad "A" at 22 Sawmill Road on Tax Map and Lot #210-010.002 in the Professional Commercial zone and the Aquifer Protection overlay district. Condominium Site Plan Review. File #2009003517.

J. Ayer said the application is complete to accept.

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

Jeff Lewis, agent representing the application, gave an update to the Board. He said the plan is only to create to condominium units in the existing building. The land, parking, and access ways will not be included in the condominium it is only the building.

J. Gagnon asked how they would figure out parking for the units. J. Lewis said there are parking descriptions in the condominium documents. He said the first floor would have more parking allocated because it is a larger area.

A. Garfinkle asked if a medical office could be located on the second floor without an elevator. J. Ayer said the fire inspector has said an elevator may be required according to fire code.

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

P. Sanfacon announced that the next application will be tabled July 6, 2009.

**Crown Castle USA, Inc.**

Applicant proposes to remove two (2) existing telecommunications towers, construct a new 182 foot telecommunications tower, add twenty-four (24) antennas, and expand the equipment shelter by 3600 square feet, on Tax Map & Lot #254-139.000. The property is located on Mount Rowe at 719 Cherry Valley Road in the Resort Commercial Zone. Site Plan Review. File #2009003518.

Motion made by R. Sonia, seconded by R. Vaillancourt, to table the application until July 6,

2009. Motion carried with all in favor.

P. Sanfacon announced the next application will be tabled July 6, 2009.

**Paugus Bay Plaza Condominium Association**

Applicant is proposing to designate eight (8) existing parking spaces for dedicated outdoor storage of rental trucks for a new commercial retail and truck rental business proposed in Paugus Bay Plaza on Tax Map & Lot #201-001.000 located at 131 Lake Street in the Commercial Zone. Amended Site Plan Review. File #2009003520.

Motion made by R. Sonia, seconded by R. Vaillancourt, to table the application until July 6, 2009.

Motion carried with all in favor.

The Board entered into the deliberative portion of the meeting.

**DELIBERATIONS**

**Gilford School District SAU #73**

The Board took no action.

**Steve Gleeson**

Motion made by K. Hayes, seconded by R. Vaillancourt, to approve the application for an excavation business subject to the following condition(s):

1. The use shall continue to operate as described in the application.
2. There shall be no outdoor parking of construction vehicles and equipment unless they are located behind the building or otherwise kept out of site.
3. The garage or barn exterior shall be maintained in a neat and orderly manner.
4. The application shall be amended to reflect the measurement of 50'x 35' area behind the building to where the equipment will be stored.
5. The applicant shall obtain any other federal, state, or local approval that may be required.

Motion carried with all in favor.

**Alan Beetle/Bertha Mae Enterprises, LLC- Subdivision Plan Review**

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

- 1 Subject to the applicant obtaining any other federal, state, or local approvals that may be required.
- 2 Remove the pavement and replace with bluestone as shown on the plan

prior to recording or within 60 days from June 15, 2009.

Motion carried with all in favor.

**McGinley Development, Inc.- Subdivision and lot consolidation plan review**

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

1. Approve the plan to consolidate the lots and remove Pads B and C and only approve Pad A at this time.
- 3 Subject to the applicant obtaining any other federal, state, or local approvals that may be required.

Motion carried with all in favor.

**McGinley Development, Inc- Revised Site Plan Review**

Motion made by J. Gagnon, seconded by R. Waitt, to table the application to the July 20, 2009 meeting to allow the applicant time to submit an engineered slope design.

Motion carried with all in favor.

**McGinley Development, Inc- Condominium Site Plan Review**

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

- 1 Approve the application subject to town counsel being satisfied with the condominium documents.
- 2 Subject to the applicant obtaining any other federal, state, or local approval that may be required.

Motion carried with all in favor.

**Other Business**

**Minutes** –Motion made by R. Vaillancourt, seconded by R. Sonia, to table the minutes from June 1, 2009. Motion carried with all in favor.

**Adjournment** – Motion made by R. Sonia, seconded by R. Vaillancourt to adjourn at 10:20 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte  
Administrative Assistant