

Town of Gilford
Planning Board
Gilford Zoning Board of Adjustment
Conservation Commission
Work Session Minutes
Gilford Town Hall – Conference Room A
November 2, 2009

Members present:

Planning Board members: Chair-Polly Sanfacon; Vice Chair John Morgenstern; Selectmen's Representative Kevin Hayes; Regular Members Jerry Gagnon, Dick Waitt, and Richard Vaillancourt; Richard Sonia, and Alternates: Wayne Hall and Dennis Corrigan.

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

Members absent: Andrew Garfinkle, Carolyn Scattergood, and David Arnst.

Zoning Board of Adjustment members: Chair-Andrew Howe, Vice Chair-Scott Davis, Robert Dion, Ellen Mulligan, Alternates Connie Grant and Mark Corry,

Members absent:

Conservation Commission: Chair-John Goodhue, Vice Chair-Lee Duncan, Everett McLaughlin, Carole Hall, Tom Drouin, Doug Hill and Chuck Coons

Members absent:, Don Sibson, Larry Routhier, Terry Stewart.

P. Sanfacon convened the meeting at 7:00 p.m. with the Pledge of Allegiance. She welcomed the members from the other Boards and suggested all Board members introduce themselves. With that she turned the meeting over to John Ayer.

Discussion 2010 Proposed Zoning Amendments

6.22 Storm water Management – All subdivisions and site plans shall be developed in accordance with the Storm water Management requirements of the Subdivision and Site Plan Review Regulations for the Town of Gilford, New Hampshire, which provide technical standards for designing, developing, and maintaining storm water management systems.

J. Ayer discussed these regulations. He explained they are technical and nature and that they could be referred into the site plan and subdivision regulations instead of the zoning ordinance.

S. Davis asked who is going to interpret the technical aspects of the proposal. J. Ayer explained first it would be reviewed by staff and that they are in the process of hiring a town engineer that

would assist with the review of the regulations.

J. Goodhue asked where the Conservation Commission would be involved in this ordinance. J. Ayer said he didn't believe there would be an opportunity for the Commission to be involved in the review process.

6.20 Fire Protection for Residential Property – A water supply suitable for fire protection purposes must be provided by the developer for all Multi-Family developments, Planned Unit Ddevelopments, Cluster Housing projects, and Manufactured Housing Parks, and for all Single-Family subdivisions of six (6) lots or more. The water supply requirement can be met by using a municipal water supply, cisterns, or sprinkler systems. The method used to satisfy this requirement must be approved at the sole discretion of the Fire Department for design and volume/flow minimum amounts. Surface water supplies shall not be allowed to meet this requirement unless they are natural water bodies meeting the minimum volume and access requirements and only if their use is approved by the Fire Department.

J. Ayer explained the ordinance is proposed to no longer allow fire ponds. He said he has met with the Fire Chief and they discussed placing this amendment into the subdivision regulations instead in the zoning ordinance.

K. Hayes asked about the standards the fire department uses for how to measure how much water is needed for different types of fires. J. Ayer said the Fire Department uses the NFPA regulations and agreed with K. Hayes that they should be referenced in the ordinance.

J. Goodhue spoke about this amendment that was approved at the 2009 town meeting; but due to an administrative error in posting, the amendment was not valid and did not take effect. He is concerned about the sole determination can be made by the Fire Department of whether a sprinkler system is needed. He questions how technical the regulations have to be for this Town. He supports the Fire Department but is concerned about how much regulation is needed and the costs associated with regulations.

C. Grant thought the intent was to get the Town out of paying for the maintenance of the fire ponds and move to the cistern ordinance.

A. Howe is concerned about not allowing people to construct ponds if the property can support them. He also said that the ponds are aesthetically pleasing.

D. Hill asked if the Town of Gilford is not going to allow fire ponds any more. J. Ayer explained there have been a few existing fire ponds that have been allowed for subdivisions and they have had a lot of problems with them and that the intent of the ordinance is to involve the fire department for the most reliable suppression. S. Davis explained the fire ponds are not a reliable source for fire suppression and there is no guarantee there will be enough water for proper suppression due to maintenance issues with existing ponds. He said there is more reliability for water supply with cisterns.

5.1.4 Side Setback Area

(a) No structure over four (4) feet high is allowed in the required setback area, the space from side lot line to side setback line except as otherwise provided for herein. Such Structures four (4) feet high or less shall be no closer than five (5) feet from the property line.

(b) Accessory buildings, Ornamental features, eaves, and cornices may project up to two (2) feet into the required side setback area. Accessory buildings, except those used for living or sleeping quarters, may be built within the required side setback areas with height up to fifteen (15) feet, no closer than ten (10) feet from side lot line or other buildings. Accessory buildings used for living or sleeping quarters shall not be located within the side setback area.

(c) Parking in the side setback area is limited as defined in Article 7, Off Street Parking.

5.1.5 Rear Setback Area

(a) Required rear yard shall be an area enclosed by the rear lot line, the side lines, and a line parallel to the rear lot line a distance from the rear lot line as specified in Table 2, Dimensional Regulations.

(b) Ornamental features, eaves, and cornices, etc. may project up to two (2) feet into the required rear setback area. Accessory buildings may be built in the rear setback areas with height up to twelve (12) fifteen (15) feet, no closer than ten (10) feet from rear lot line or other buildings, and covering no more than thirty percent (30%) of the setback area.

J. Ayer explained this proposal.

S. Davis spoke about allowing a building with a foundation or without a foundation into the setback and there should be a difference.

D. Hill asked if he is going to amend the definition of an accessory building and he said there is a difference in putting a permanent structure within the setback or a temporary building. He said that the way it is currently worded is confusing.

J. Ayer will review the proposed language.

PROPOSED AMENDMENT REGARDING REGRADING OF STEEP SLOPES

5.1.1 Lot Size and Buildable Area

(a) A dwelling, structure, or building may be constructed and used on a lot having the following minimum lot area provided topographic and soil conditions allow this lot to meet sanitary requirements for the use.

(b) The minimum new lot size is two (2) acres in the NRR zone and IR zone, and one (1) acre in all other zones. Every buildable lot must have at least one (1) acre of contiguous buildable area which has a minimum width of twenty (20) feet. The minimum lot size within the Historic District shall be two (2) buildable acres, regardless of the zone in which the property is located. Buildable area shall not

include land which is wetlands as defined by Section 15.2, prime agricultural land or agricultural land of statewide importance as classified by the Federal U.S. Soil Conservation Service, or land having a slope greater than fifteen percent (15 %). The Planning Board may also allow lands classified by the Federal U.S. Soil Conservation Service as prime agricultural or agricultural land of statewide importance to be included in the calculation of buildable area, if the Planning Board determines that the land is improperly classified, or that the size, location or adjoining use make the parcel unsuitable for agricultural use. All site plans for commercial use and subdivision plans that contemplate construction shall indicate the buildable area on the plan. Areas excluded from comprising the buildable area cannot be built upon or included in calculating overall density of the parcel. Appeals from this administrative decision shall be made to the Zoning Board of Adjustment.

(c) New lots that do not meet either the minimum lot size or buildable areas required may be approved by the Planning Board provided that said new lot be designated as non-buildable and restricted from use as a separate lot, or be joined to an adjacent lot which is, or will be after joining, a conforming buildable lot.

(d) Buildable Area shall be calculated using the definition of Steep Slopes found in Article 3. No excavation or re-grading to create buildable area shall be permitted.

OR

(d) Buildable Area shall be calculated using the definition of Steep Slopes found in Article 3. In residential zones, no more than 5,000 square feet of steep slopes per acre may be regraded to create Buildable Area. Slopes over thirty percent (30%) shall not be regraded or counted in the calculation of Buildable Area.

J. Ayer spoke about the definition of steep slopes in the ordinance and he said surveyors have had difficulty in interpreting the definition. He read the definition from Article 3.

J. Gagnon spoke about slopes being regarded in order to create buildable area in the past.

S. Davis spoke about Gunstock Acres and how steep the slopes are in the lots that were created before zoning.

J. Goodhue is not in favor of proposed (d) allowing excavation for buildable area. L. Duncan agrees and discussed the negative impacts of excavating on steep slopes. P. Sanfacon said the Planning Board has been divided on this issue. J. Goodhue said the Conservation Commission is going to be the board that deals with the problems from the proposed regulations and they are united in their opposition to allowing any excavation for buildable area. J. Goodhue and C. Coons spoke about how important it is to not have Gilford allow excavating over 15% slope due to the proximity to Lake Winnepesaukee and the environment in general. D. Hill is also in favor of not allowing any area to be excavated. C. Coons spoke about the Natural Resource Inventory (NRI) that does not recommend excavation of 15% slopes and also read a clearer definition for "steep slope".

Stephan Nix, resident, spoke about additional review that could be utilized if an applicant requests to excavate to create buildable, a performance guarantee can be established for the site, they could be required to get a special exception or have the town engineer review the proposal.

6.2 Nuisances – No owner or occupant of land in any district shall be permitted to create any dangerous, injurious, noxious, hazardous, unhealthy, or otherwise objectionable disturbance, including, but not limited to, prolonged, recurring or frequent exposures to: fire, smoke, explosions, radioactivity, noise, garbage, dust, odor, vibrations, hazardous waste, pollution, heat, glare, lighting, water runoff, erosion, or conditions conducive to the breeding of rodents or insects. These prohibitions shall apply to all nuisances, to include such uses as may have been grandfathered, permitted or otherwise allowed under this Ordinance, to the extent that such conditions may not have been previously known or are subsequently discovered to exist, notwithstanding any federal or state regulation to the contrary.

J. Ayer explained the need for the proposed ordinance as it was the responsibility of the Board of Selectmen and the Planning Board to determine if a use was obnoxious and that was difficult to enforce.

A. Howe is against the 6.2 Nuisances as it could negatively impacts his farming as his farming would fall under this proposed ordinance and they would be allowed to go to the Town of Gilford and shut him down.

The Board discussed exempting Agriculture uses from the proposed amendment.

Stephan Nix, also suggested exempting agriculture by referring to the RSA definition. He reminded the Planning Board agriculture is allowed in every zone.

Discussion ensued about enforcement of the proposed ordinance and J. Ayer explained that D. Andrade is uncomfortable enforcing the existing ordinance.

S. Nix, said it is a starting point for enforcement.

Discussion ensued about the proposed ordinance being difficult to enforce because it is too subjective. C. Coons said it is a blanket ordinance that will be hard to enforce. D. Hill said the ordinance should include health and safety issues for easier enforcement and he said that agriculture uses should be exempt.

6.6 Unlicensed and Commercial Vehicles – In any zone, motor vehicles that require a license plate, but which are without a current plate, shall be parked or stored only in authorized or approved sales area or in approved junk yards and shall be maintained in a roadworthy condition, except as otherwise provided for herein. In residential zones, unlicensed vans and trucks of more than one (1) ton carrying capacity or drag/stock cars shall be stored out of sight from adjacent properties. This does not pertain to farm and utility vehicles or other vehicles that are in regular use and do not need a license plate for such use. In residential zones, up to two (2) non-roadworthy motor vehicles may be kept at a single-family or two-family dwelling provided such vehicles are kept within a building and are out of sight of adjacent properties. No motor vehicle that requires a commercial drivers license to operate on a public road shall be kept overnight on a private lot within any residential zone unless actively engaged on-site in an activity permitted

and approved by the Town of Gilford, or unless said vehicle is used solely on-site for private, non-commercial purposes. These prohibitions shall apply to such uses as may have

J. Ayer explained there is an objection to regulations for commercial vehicles being in a residential zone. He said the intent of this ordinance is to prevent construction vehicles from being brought into a residential neighborhood.

Discussion ensued about “Home Occupation” criteria and how this proposed ordinance would be applied.

Other Business –

J. Ayer reviewed the schedule for the proposed amendments and the available meetings left.

A. Howe spoke from the Zoning Board’s point of view and he discussed conflicts in the ordinance and said there needs to be housecleaning amendments done more often.

J. Morgenstern said he would appreciate updates from the ZBA when they uncover these conflicts so they can be addressed.

P. Sanfacon said this work session has been very helpful and she thanked the Board’s for coming and participating in the session.

J. Goodhue wants the Board’s to get together at the beginning of the amendment season. P. Sanfacon agrees and wants the Boards to provide suggestions to the Planning Board.

D. Hill spoke about a wetland buffer proposal and he thinks there should be a designated 50’ buffer around the designated wetlands. He referred to different communities that have different ways to regulate some uses in wetland buffer, i.e. driveways, by utilizing special exceptions or conditional use permits.

J. Ayer spoke about creating a sub-committee for the workforce housing ordinance and P. Sanfacon and D. Corrigan volunteered to sit on the sub-committee. S. Davis discussed the workforce housing application and hopes there is some clarity in the town’s ordinance.

Motion by R. Sonia, seconded by K. Hayes, to adjourn at 8:45 p.m. Motion passed unanimously.

Respectfully Submitted,

Stephanie Verdile Philibotte
Technical Assistant