

**MINUTES
GILFORD PLANNING BOARD
GILFORD ZONING BOARD OF ADJUSTMENT
WORKSESSION AND PUBLIC HEARING
PLANNING BOARD
SEPTEMBER 19, 2011
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Planning Board and Gilford Zoning Board of Adjustment met for a Worksession on Monday, September 19, 2011 at 6:00 p.m. in Conference Room A at the Gilford Town Hall.

Planning Board members in attendance were: Chair John Morgenstern, Vice Chair Polly Sanfacon, Selectmen's Representative Kevin Hayes, Regular Members Jerry Gagnon and Richard Sonia, and Alternate Members Wayne Hall and Chan Eddy.

Planning Board members absent were Regular Members: Richard Waitt and Richard Vaillancourt and Alternate Member Dennis Corrigan.

Zoning Board Members present were: Chairman Andrew Howe; Vice Chair Scott Davis; Regular Members Ellen Mulligan, Mark Corry, and Stephan Nix; and Alternate Bill Knightly.

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

J. Morgenstern led the Pledge of Allegiance and introduced Board members and staff.

WORKSESSION

Discussion of 2012 Zoning Ordinance Amendments Proposed by Board of Adjustment

J. Morgenstern invited A. Howe to discuss amendment proposals the ZBA would like to address.

A. Howe explained the ZBA has difficulty interpreting the "intent" of the ordinances when they review ZBA applications when there is no history available or reasoning explaining the intent of the creation of an ordinance. He asked the Planning Board to explain the intent of the changes they make to the ordinances in order to assist the ZBA to clarify the meaning, purpose, and intent of the ordinances. He explained determining intent when considering a variance or another application and understanding that is crucial to the ZBA process. J. Morgenstern agreed and thought that was a great idea and would like to see that incorporated in the amendment process. K. Hayes agreed.

Discussion ensued about the steep slope amendment in relation to the creation of buildable area (Proposed Section 5.1.1 (d)). J. Morgenstern explained the Board does not want to create an ordinance that contradicts another section in the ordinance. He said the Planning Board has

been trying to find a balance in the ordinance between being too restrictive and preventing a loophole for applicants to use.

J. Ayer reviewed purpose and background statements he recently drafted explaining each amendment. The Planning Board agreed with having a purpose and background statement for the amendments. J. Morgenstern discussed having background and purpose statement ready for the amendments this year and agreed with their importance.

K. Hayes would like to add the purpose of the entire ordinance instead of one amendment at a time, i.e. for the yard sale amendment, not only explain the purpose of the change but explain the purpose of the ordinance entirely. He suggested following through with that procedure for amendments that would not be likely to go before the ZBA.

S. Nix said background information for the reason and purpose of the change in the ordinance is important to the ZBA, particularly in the Appeal of the Administrative Decision review process. He would like to begin to have that background information readily available in the DPLU office after Town Meeting that would provide the reason and purpose of the changes.

S. Davis spoke about the frequency of setback variances and he would like to have some background information that helps explain the purpose and intent of the setbacks, especially since the variance criteria require the ZBA to analyze the purpose, spirit, and intent of the Zoning Ordinance and the Master Plan.

J. Gagnon spoke about the purpose and intent about setbacks originally saying they stemmed from fire protection guidelines to provide space between buildings for fire safety and suppression. J. Ayer agreed to have a general description of why the setbacks are the distances they are and include a purpose and intent statement. J. Morgenstern agreed.

J. Morgenstern said he would like to hear from the ZBA on more ordinance issues they encounter in their applications and their decisions. He said the Planning Board would like to work on the amendments and then present the drafts to the ZBA for review and input or if the ZBA would like to draft amendments they could forward them to the Planning Board.

A. Howe said he doesn't see the ZBA in the role of drafting ordinances. They would rather have the opportunity to review the proposed amendments from the Planning Board. He said if the ZBA has consistent, multiple issues with certain ordinances where there are a lot of applications appearing in front of the ZBA; then the ZBA should make the Planning Board aware of that situation and suggest that particular section of the ordinance may need to be reviewed. He said that is how he sees the role of the ZBA, is to inform the Planning Board on how the town and the applications are reacting to certain ordinances. He said if the ZBA is having trouble interpreting the ordinances, then they would ask for assistance from the Planning Board to clarify either by its intent and purpose or is it due to the language that was used to draft the ordinance to determine if it is too ambiguous. J. Morgenstern agreed and said he would take the ZBA's comments and suggestions into consideration into that year's amendment review. He thanked S. Nix for pointing out to the Planning Board the question, "What are we trying to accomplish..." with the amendments. He said that helps with the purpose and intent of the ordinance

amendment.

A. Howe spoke about exempting agricultural uses from regulations. He explained the RSA's offer each town the opportunity to regulate the agriculture uses to their own level and discretion. He said that the traffic impacts are low and the expenses are high for people in the agriculture business. He spoke about the difference between if an existing agriculture use wants to add a small scale improvement (i.e. greenhouses) then they should not have to go through the full site plan review process, but if there is a large scale agriculture proposal, that maybe should go through the site plan review process.

K. Hayes agreed and said if a large scale, agri-business came to town, the Town of Gilford should consider reviewing those applications through the site plan process, but not necessarily for small scale agriculture uses and agreed with the example A. Howe used. K. Hayes discussed the possibility of using guidelines based on size and scale of the proposed agriculture use to help determine what kind of review process to use.

The Board discussed functions that have been held on agricultural farms that did not receive approvals from the town that have created parking and traffic problems. Based on those examples, they all agreed that some aspects of agricultural uses should be reviewed, while other less intense activities may not need to be reviewed.

A. Howe discussed the Special Exception requirement for a Home Occupation in the Single Family Zone. He spoke about the issue the ZBA deals with, trying to maintain the residential nature of neighborhoods and also allowing people to work from home. S. Davis said the ZBA should still review the home occupation through the special exception process and both boards should review the definition of "Home Occupation". He said the current definition of home occupation is very vague, hard to interpret, too wordy, and hard to enforce and said if the Planning Board wants to have home occupations that allow situations to exist, where equipment is being marked as a home occupation but is leaving the site to go work somewhere else; that is not a home occupation. He said the definition needs to be changed. M. Corry agreed and said if you are outside your home working that is not a home occupation, you may have a home office by definition but it is not a home occupation. A. Howe said the definition has to be cleaned up for fairness to the applicant. S. Davis said the guidelines for a home occupation should include a provision that states a percentage of the home occupation use being requested has to be conducted within the home. S. Nix agreed. He said there could be an opportunity to help applicants with the application based on the size of the proposed use. The Boards agreed.

A. Howe requested that formal site plans be submitted for special exception applications. He explained that based on the special exception criteria they are responsible to review; it would be helpful to them to have complete plans that include drainage, utilities, etc.

The Boards discussed options on how to handle the special exception application.

S. Verdile Philibotte used the Village Knolls application as an example of where both boards will be involved in the plan review process. The ZBA approved the special exception, but due to the lack of engineered plans, with a condition of approval that the ZBA and Planning Board have

a joint meeting when the site plan is reviewed. She explained that would save the applicant from having to pay for multiple sets of plans and they would be able to have both reviews from both Boards at the same time. The Boards agreed to try that system to see how it would work.

R. Sonia spoke about being able to work with the applicant through the approval process and sometimes the Boards are not comfortable requiring more work and expenses from the applicant as it can be burdensome, but he also understands the importance of having complete plans and applications for a thorough review. He thinks this meeting is productive and beneficial to the amendment review process.

S. Davis spoke about other situations where applicants need more than one approval from the Boards. He used the example when a NHDES permit is needed in addition to the approvals from the Planning Board and the ZBA. If the applicant received approval from the Planning Board he would like to have some notice of what applicants are approved for forwarded to the ZBA. The Planning Board agreed.

E. Mulligan would like to know who is reviewing the applications in the department for completeness because they see a lot of applications that are incomplete. J. Ayer said D. Andrade and S. Verdile Philibotte who receives the applications would be the primary ones to do that. He also explained that staff often explains to applicants what they should include in their applications to improve their chances for approval.

J. Ayer and the Board suggested this might be more of a policy issue than a Zoning Ordinance amendment issue. The ZBA could list minimum details to include in site plans. These could be written in to their rules and application forms.

The Boards decided that they would address “Roomer” and “Family” definitions for the 2013 amendment season.

S. Davis spoke about workforce housing and would like to see those regulations clarified to ensure that the rents would be controlled for workforce housing and he would like to see regulations to assist that. J. Ayer said the Town got a grant and hired a consultant to draft a workforce housing amendment but it failed at town meeting in 2010.

The Boards discussed the Section 5.2.1 amendment regarding the Island & Shore Frontage District. S. Nix and E. Mulligan spoke about enforcement issues that have to be addressed with some of the amendments proposed, particularly in regard to incorporating the 2008 Comprehensive Shoreland Protection Act regulations.

A. Howe and the ZBA thanked the Planning Board for the joint Worksession.

J. Morgenstern opened the Public Hearing portion and invited the public to speak. J. Morgenstern spoke to Diane Hanley and Lee Duncan of the Conservation Commission who were present and thanked them for them for the previous joint meeting they had with the Planning Board. D. Hanley and L. Duncan thanked the Planning Board for the opportunity.

D. Hanley spoke about amending Section 5.2.1 and that she agrees with K. Hayes, who spoke about utilizing some of the “old” CSPA standards in the Gilford Ordinance. She spoke about an example of utilizing the old CSPA guidelines for tree removal as part of Gilford regulations. She said part of the intent would be adding those regulations as a workable solution that is easy to understand. She does not want to create another permit system. She would like to prepare a comparison on the old and new CSPA guidelines to provide to the Board in order to discuss and decide which would work best for the amendment. The Board agreed.

The Board took a 10 minute break at 7:20 PM.

The Public Hearing began at 7:30.

PUBLIC HEARING

J. Morgenstern appointed alternates C. Eddy and W. Hall to replace absent regular members Richard Waitt and Richard Vaillancourt.

Mallory Murphy

Applicant proposes to open a Portrait Photography Studio as a home occupation in the basement of the home on Tax Map and Lot #253-400.000 located at 5 White Birch Drive in the Limited Residential Zone. Home Occupation Site Plan Review.

J. Ayer said the application can be accepted as complete. He noted there is no site plan per se, but the aerial photo and tax map printouts, plus the basement floor plans provide enough information to discuss the application.

Motion made by P. Sanfacon, seconded by C. Eddy, to accept the application as complete. Motion carried with all in favor.

J. Ayer introduced the application.

Mallory Murphy, owner and applicant, was in attendance to represent the application. She explained she would like to open a Photography Studio in the basement of her home. She explained the hours of operation and she would only be open on the weekends. She said that she has seasonal access directly to the studio through the yard into the walk-out basement. She said she would not be installing signs and that she limits the number of people that can use the studio to five people at a time. She has enough parking on site and she explained she will schedule her appointments so as not to overlap and where overflow parking will not be an issue.

J. Morgenstern opened up the hearing for public input. There being none he closed the public hearing.

Deliberations

Motion made by C. Eddy, seconded by R. Sonia, to approve the application subject to the applicant obtaining any other federal, state, or local approval that may be required.

Motion carried with all in favor.

Other Business –

Conceptual Review- 2-Lot Subdivision

Svend Filby, 86 Briarcliff Road, property owner, is looking for input from the Board on the possibilities of subdividing his lot based on from the conceptual plans he presented for review.

J. Ayer said the buildable area has to be contiguous. S. Filby said they are aware of that and will make changes.

The Board and applicant discussed the proposed changes to the zoning ordinance dealing with excavating buildable area and the slopes on the area.

J. Ayer referred to the Steep Slope definition in the zoning ordinance. The Board and the applicant discussed the regulations.

Other board members talking -missed conversation

K. Hayes said he wants the formal plans to show how they are going to excavate to get the buildable area and how they are going to make the grade work in relation to the drainage and the slopes.

The Board reviewed the application and approval requirements with the applicant.

Minutes

Motion by K. Hayes, seconded by R. Sonia, to approve the minutes of the August 29, 2011 Planning Board Worksession as presented. Motion carried with C. Eddy abstaining.

J. Ayer reviewed request from Winnepesaukee Yacht Club to raze a building on their site in order to install a foundation underneath to make the building handicap accessible. They are moving the building to relocate the structure out of an existing sewer easement. J. Ayer explained this work can be done without formal site plan review and he can approve the application based on provisions in the Subdivision and Site Plan Review Regulations. The Board agreed.

Mr. Gagnon- Request for an Automotive parts resale business- J. Ayer reported that Rich Gagnon, of Repair Service of New England (RSNE) on Annis Drive, would like to operate a used auto parts store at his commercial site. J. Ayer explained that the use would be considered a “Junk Yard” and they are not allowed in Gilford. The Board agreed.

Adjournment –

Motion by R. Sonia, second by K. Hayes, to adjourn at 8:00 p.m. Motion carried with all in favor.

Respectfully Submitted,

Stephanie Verdile Philibotte
Technical Assistant