

**MINUTES  
GILFORD PLANNING BOARD  
NOVEMBER 21, 2011  
CONFERENCE ROOM A  
7:00 P.M.**

The Gilford Planning Board met for a public hearing on Monday, November 21, 2011, at 7:00 p.m. in Conference Room A in the Gilford Town Hall.

In attendance were Chair John Morgenstern; Selectman's Representative Kevin Hayes; Secretary Richard Waitt; Regular Members Jerry Gagnon, Richard Vaillancourt, and Richard Sonia; and Alternate Members Chan Eddy and Wayne Hall.

Members absent included Vice Chair Polly Sanfacon and Alternate Dennis Corrigan.

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

J. Morgenstern led the Pledge of Allegiance and read the rules of procedure for the meeting. J. Morgenstern appointed C. Eddy to replace absent regular member P. Sanfacon, and W. Hall to replace J. Gagnon who recused himself from participating on the Svend Filby application because he is an abutter to the project.

**Public Hearings**

J. Morgenstern introduced the application.

**1. Svend Filby**

Applicant proposes a two-(2) lot subdivision with Lot #1 containing 5.02 acres and Lot #2 containing 4.20 acres, on Tax Map and Lot #253-108.500 located at 86 Briarcliff Rd. in the Single Family Residential Zone. Subdivision Plan Review. File #2011004819.

J. Morgenstern asked J. Ayer if the application is complete. J. Ayer said the application is complete and reviewed the checklist items applicant had addressed since the previous meeting. He said at the last meeting the applicant made a presentation to the Board but no public hearing was held. He noted most of the missing items from the plan have been submitted and completed and he is waiting for a letter from the Soil Scientist from Svend Filby's agent Bill Gregsak.

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

Bill Gregsak, engineer representing the application, said he has a letter from a soil scientist but he does not have the letter available for the meeting.

J. Ayer discussed the "Common Land" referred to on the plan. He said there is a plan that was recorded at the registry in 1969, referred to as the Gunstock Acres Master Plan, which shows the

“Common Land” that the applicant shows to be on these lots. He noted that the Master Plan of Gunstock Acres is not an approved plan, it is just a recorded plan and there is no “Common Land” designated on the approved and recorded subdivision plan and therefore believes the “Common Land” does not exist. He further noted that the Master Plan describes the land as Green Space, not Common Land. B. Gregsak said it is noted in the deed of the land and so the surveyor felt it should be shown on the plan.

J. Gagnon, abutter, seated in the audience, said the Gunstock Acres Master Plan was never approved by the Planning Board, it was used as a reference plan.

Discussion ensued about the language in the deed that discusses the “Common Land” and whether it is in the deed of the property. J. Gagnon said it is in the deed for the subdivision but not for the individual lot.

B. Gregsak gave a brief presentation to the Board. He discussed the location of the subdivision and he reviewed the revised plans that describe the drainage and excavation of the slope areas. He said they can show there is no increase in the peak run off from the site.

J. Morgenstern asked if a notation should be shown on the plan to explain the “Common Land”. B. Gregsak said the surveyor said it should be shown on the plan. B. Gregsak said they identified two different types of iron pipes on site and one type is located in a straight line behind the existing house and follows the line described for the “Common Land”.

J. Gagnon said Gunstock Acres put those pins in as a future subdivision that was never approved. He said the Planning Board said they would not approve the proposed subdivision at that time, but the pins remained on the property. He said if the most recent plan was used as a reference it would not show the pins. J. Gagnon said there is no approved plan that shows the “Common Land”, therefore he thinks it should not be shown on the plan.

J. Morgenstern suggested a note should be added to the plan explaining the status of the “Common Land”. R. Sonia agreed and said there should be an explanation on the plan that explains the status of the “Common Land”. J. Morgenstern followed up his earlier comment saying that maybe a note should not be included on the plan because it is confusing and maybe any reference to it should be taken off the plan. He said the Board can discuss it in deliberations.

K. Hayes asked for clarity about the proposed area to be regraded and if the slope was to be 20% or less, or 15% or less. He and B. Gregsak discussed the re-graded area and K. Hayes spoke about concerns over the proposed ledge cut. B. Gregsak said the area has a lot of ledge outcrop and they acknowledge that there will be a lot of blasting.

R. Sonia observed that the septic field will be located a long way from the house and asked if that is normal. B. Gregsak said it is not unusual. They have designed a gravity flow system and the length of the pipe will require installing a few manholes for maintenance.

J. Ayer reviewed the comments from the Conservation Commission.

Comment 1. Approximately 31,000 SF of area on site for proposed excavation and blasting will occur on a 36% slope. The Commission is concerned about blasting and removing that amount of fill on such a steep slope. They are also concerned about the effects blasting could have on neighboring structures.

B Gregsak said the blasting will be done by a professional blasting company and all the precautions will be in place. J. Morgenstern asked how close the houses are to the blasting sites. B. Gregsak said there is one across the street and it could be within 100-150 feet of the blast area. B. Gregsak disagreed with the amount of area the Commission calculated that is being blasted on 36% slope. He said he does not have the total amount of area taken out for blasting and he said the entire area to be excavated is not all from blasting.

Comment 2. Will the runoff and storm surge from the site be handled properly and if the proposed retention and detention plans are adequate. The Commission is also concerned about who will be financially and legally responsible to maintain the conditions of the site during excavation and construction phases.

B. Gregsak said they will work with the town's engineer and that they will post a bond for the site and their drainage calculations are based on a 100 year storm event.

Comment 3. The Commission recommends the site should be financially bonded, at the applicant's expense, for at least five (5) years to allow for complete re-stabilization of the site or until construction of all structures and improvements are completed, whichever is longer.

The Planning Board discussed the bond issue and said the applicant will have a bond in place for improvements as part of the subdivision but not necessarily for building construction.

Comment 4. The Commission recommends the services of Dubois & King, Inc. Consulting Engineers (including any future or subsequent engineering firm retained by the Town of Gilford to work on behalf of the Town of Gilford) be retained for the entire length of the project from excavation to construction completion at the applicant's expense to perform all inspections and plan review.

The Planning Board will send the application and plans to Dubois & King for review at the applicant's expense. J. Morgenstern said the Commission discussed having Dubois & King also supervise the construction phase. R. Sonia said the Commission has gone beyond the scope of the review, in his opinion, and that additional engineering on site is an imposition to the applicant. He said after the initial engineering review Dubois & King should not be involved. He said D. Andrade, Code Enforcement Officer, and the Town of Gilford should be the one to inspect the site. J. Ayer said that Dubois & King should be involved at the end of construction for the stabilization of the site.

Comment 5. The Commission is concerned about the amount of vegetation being removed from the site and its negative impact. The Commission recommends a landscape

plan that includes a complete re-vegetation plan for any of the disturbed areas. Said plan to be reviewed and approved by Dubois & King, Inc. Consulting Engineers, the Planning Board, and the Conservation Commission.

B. Gregsak said they are proposing a basic regrading plan and do not want to include a landscape plan at this time noting that final landscaping would be by the future homeowner. K. Hayes said they should illustrate on the plans the basic description of what types of vegetation will be used for site stabilization.

K. Hayes wanted to know if they proposed a ten (10) foot ledge cut wall or a six (6) foot ledge cut wall, noting that the taller ledge cut wall would reduce the areas to be impacted and could require less grading above the wall. B. Gregsak said he would look into that. K. Hayes would like an as-built plan of the site grading before the bond is released to verify the work on the site has been completed according to the approved plans.

Discussion ensued about the area proposed to be disturbed if it is mostly ledge or not. K. Hayes would like to see the taller ledge cut wall in order to reduce the amount of area to be disturbed.

The Board discussed the completion of the notes on the plan describing the stabilization of the site including the vegetation and regrading plan. J. Morgenstern thanked the Conservation Commission for their comments.

J. Morgenstern opened the hearing for public input.

Al Moriarty, abutter, said he lives directly above the proposed lot to be excavated. He said they had to repair their foundation a few years ago and it is now pinned to the ledge. They are very concerned about the proposed blasting on the site. He said they are approximately 100 to 250 feet away from the blasting site. They are concerned about the stability of their house from blasting. He said other abutters that could not attend the meeting have expressed the same concerns, and he is speaking on their behalf.

K. Hayes said the applicant may want to ask the blasting company to check the houses prior to blasting and do a pre- and post-blast survey of the neighboring houses. S. Filby said they can also do smaller blasts that are not as severe.

A. Moriarty asked if they will be bonded for the blasting. K. Hayes said the blasting company is responsible for the bonding and the Board agreed to include that as a condition of approval.

Patricia Martin, abutter, said her property is below the site along and accessed by the right-of-way. She is concerned about the increased runoff from the site. She said she had a lot of problems with runoff when the applicant's house was built and she wants to be protected from increased runoff. She would like something in place to have the site restored after blasting and excavation. K. Hayes assured her that the blasting company will be responsible for pre- and post-blasting survey conditions and be responsible for the blasting.

A. Moriarty asked how they would know when the blasting will take place. K. Hayes said they

are required to post a notice prior to the blasting. S. Filby suggested the blasting company notify all the abutters with a letter for when blasting will begin. K. Hayes said he believes a notice has to be published in the paper as to when the blasting will begin. Abutters were advised that they would not receive a notice when a building permit is issued.

J. Morgenstern read a letter into the record from Gisella Garan, an abutter. B. Gregsak showed the Board the location of the abutter's property on the plan.

The Board discussed Ms. Garan's concerns and they explained their proposal will not obstruct her view. J. Morgenstern will write a letter to Ms. Garan to address her concerns.

With no further public comment, J. Morgenstern closed the public hearing.

### **DELIBERATIONS**

J. Morgenstern said they should table the application and have the Town Engineer review the application. He requested J. Ayer write a motion that includes all of the Board's and Commission's concerns as conditions of approval. He wants the stability issue and water flow on the site in particular to be reviewed and he wants those issues addressed by the town engineer. The Board decided t the town engineer will not provide a review regarding the blasting.

W. Hall spoke about the iron pins that are shown on the plan and asked if that would impact the review by the town engineer. The Board said no. R. Sonia explained the Board may require a note be included on the plan regarding the Common Land and the pins found on the property.

Motion made by R. Sonia, seconded by K. Hayes, to table the application until December 19, 2011, pending a review by the Town's consulting engineer, Dubois and King.

Motion carried with all in favor.

### **Minutes**

November 7, 2011 – Motion by R. Sonia, seconded by K. Hayes, to approve the minutes of November 7, 2011 as presented. Discussion on the minutes – J. Morgenstern asked for clarification regarding if K. Hayes voted for or against a motion. It was decided the minutes correctly represented which motion K. Hayes voted against.

Motion carried with C. Eddy abstaining.

### **Other Business**

#### **Discussion of Proposed 2012 Zoning Ordinance Amendments –**

Home Occupation/Large Commercial Vehicle Parking – J. Ayer said this proposal is in response to a suggestion by the ZBA to create a separate special exception use for large vehicle parking rather than to have those standards in the Home Occupation standards.

Discussion ensued about the length of time large vehicles actively working on-site may be parked on site and the setback distance required for parking large commercial vehicles. It was suggested to say in Section 11.4.8(a)4. that routine vehicle maintenance is allowed but should not result in “environmental degradation”, rather than to specify what work on vehicles is prohibited. J. Ayer will reword the amendment and bring it back to the Board.

Section 5.1.1, Regrading to Create Buildable Area – J. Ayer said he added “runoff” to the proposed amendment after comments at the previous meeting. The Board approved the revised language and said this amendment is ready for public hearing.

Roomers Amendment – J. Ayer said this amendment deletes the Roomer land use from the ordinance and every reference to it. J. Ayer will keep the section number in the table of uses and insert the word “Reserved” in place of the word “Roomers”. The Board approved the proposed amendment and said it is ready for public hearing with the noted change.

Island and Shore Frontage District – J. Ayer reviewed the changes to Section 2.1 and the Board approved the revised language as presented, noting that it is ready for public hearing. J. Ayer reviewed the revised language for Section 5.2.1. The Board approved the revised language as presented and said the amendment was ready for public hearing.

Change Home Occupation to a Permitted Use in the SFR Zone – J. Ayer confirmed that the amendment is ready for public hearing. The Board agreed.

Yard Sale Permits – Deleting 3-Day Advanced Filing Requirement – J. Ayer confirmed this amendment is ready for public hearing. The Board agreed.

**2012 Meeting Schedule** – The Board will approve this at the December 5, 2011 meeting.

**Recent As-Built Plan Submissions** – J. Ayer explained that an as-built plan was recently submitted for the new Hannaford grocery store and a partial as-built was submitted for three new senior housing units in York Village. He said the plans were accurate and complete, and that they reflected closely what was approved on the site plans.

**Voluntary Lot Merger Request** – S. Verdile Philibotte explained the Voluntary Lot Merger request of Richard Ellis for 12 Wildwood Road. Motion made by R. Sonia, seconded by K. Hayes, to authorize J. Morgenstern to sign the Voluntary Lot Merger. Motion passed.

## **ADJOURNMENT**

**Adjournment** – Motion made by R. Sonia, seconded by K. Hayes, to adjourn at 8:29 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte

Technical Assistant