

Town of Gorham
Joint Hearing with the Zoning Board &
Planning Board Minutes
July 11, 2013

Members Present: Michael Guay, Mike Waddell, Dan Buteau, Paul Robitaille, Reuben Rajala, Earl McGillicuddy

Absent: None

Excused: Barney Valliere, Wayne Flynn, John Losier

Others: Robin Frost, Town Manager, John Scarinza, Code Enforcement Officer

Members of the Public Present: Al & Kathleen Duncan, Tim Sappington, Gail Scott, Berlin Daily Sun

Planning Board Roll Call: Michael Guay, Mike Waddell, Dan Buteau, Paul Robitaille, Reuben Rajala, and Earl McGillicuddy.

Planning Board Meeting called to order: 7:02 pm by Chairman, Michael Guay. Chairman Guay appointed Reuben to sit in place of Wayne as a full voting member for the meeting as Wayne recused himself from the meeting.

Acceptance of Minutes: A Motion was made by Mike Waddell and 2nd by Paul Robitaille to accept the Minutes of June 27, 2013. All were in favor.

A Motion made by Earl and 2nd by Mike to recess the Planning Board meeting to go into joint meeting with the Zoning Board.

Zoning Board Roll Call: Present: P.J. Cyr, Wayne Flynn, Thomas Dyar, Yves Zornio

Excused: Suzanne Whitehouse, Keith Roberge, Stephanie Kennedy.

P.J. appointed Yves Zornio to sit in place as a full voting member.

Zoning board discussion regarding their matters.

A Motion to Recess Zoning Board meeting to go into joint meeting with the Planning Board was made by Wayne and 2nd by Tom, all were in favor.

Joint meeting of Planning and Zoning Boards called to order at 7:07 by Chairman Michael Guay. Chairman Guay wanted it to be clear that the boards were now sitting as one board. The only time they will not sit as one board is on a voting matter concerning each case. When there are board comments from either zoning or planning, anyone from the joint boards can speak. Same goes for the voting side, if it is for the variance from the zoning board, only the zoning board will be voting; same goes for planning board site plan, only the planning board will be voting.

Planning Board roll call for joint meeting: Michael Guay, Mike Waddell, Dan Buteau, Paul Robitaille, Reuben Rajala, and Earl McGillicuddy. Chairman Michael Guay appointed Reuben to sit in Wayne's place as a full voting member.

Excused: Barney Valliere, Wayne Flynn, John Losier

Zoning Board Roll Call for Joint Meeting: Present: P.J. Cyr, Wayne Flynn, Thomas Dyar, Yves Zornio
Excused: Suzanne Whitehouse, Keith Roberge, Stephanie Kennedy. P.J. appointed Yves Zornio to sit in place as a full voting member.

Zoning Board Case #03-2013, Al Duncan property located at 129 Main Street- variance.

Planning Board Case #04-2013 – Al Duncan, property located at 129 Main Street- Site Plan Review

Robert & Kathleen Duncan previously submitted an Application for Variance regarding special acceptance on the definition of tourist accommodations **Zoning Board Case #03-2013**, for property located at 129 Main Street. The Duncan's are before the board wishing to dismiss Case #03-2013 and submit a new application for a Variance for four (4) apartment units. At this time the Duncan's were informed that there was not a full voting board and that they could continue their case again if they wanted to. The Duncan's wish to proceed with the hearing. **Let the record show that the Duncan's were advised of their rights to have a full voting board and they chose to move forward on their new variance request under Article 5.05 B of the Zoning Ordinance.**

At this time Paul Robitaille asked Chairman PJ Cyr if the original variance had been changed since the previous meeting. Chairman Cyr stated the first variance was a special exception on the definition of tourist accommodations that had been dismissed and the Duncan's were now applying for a variance for four (4) apartment units. Mr. Robitaille was very upset about the planning board not being advised of this change and wanted to know why the Planning Board members were not notified until now. Chairman Cyr stated that all abutters were notified and the fees were paid accordingly and it appeared only the Planning Board members were not notified in a timely fashion. Mr. Robitaille felt he was at a disadvantage since he was not properly notified.

Discussion was had amongst the board members regarding the Duncan application. Tim Sappington read a series of "bullet points" regarding the new site plan request for three units on behalf of the Duncan's for their request for a variance. **For the Record:** There are currently 5 units at this time and the Applicants are requesting to change the space to 3 rental units so there would be no unnecessary hardship. Second is the

proposed usage makes perfect sense to utilize the property in this manner as it previously was a 5 unit building when the Duncan's purchased the building and now they are asking for a lot size variance for 4 units. Currently there is 11,941 square feet in Commercial A district for the town.

DISCUSSION REGARDING HARDSHIP ISSUES was had with Mr. & Mrs. Duncan. Mr. Duncan stated the hardship would be if they couldn't make a living out of renting the said units then they would have to put the building up for sale and move as they are retired and on a fixed income.

Discussion regarding the tax cards reflecting 2 units and the 10,000 square foot rule and the number of units that the building has at the current time. The 10,000 square foot rule that was enacted by a Petition Warrant Article by the governing body of Gorham. The towns' people came up with the rule and it was voted on.

For the Record Mr. Waddell is in support of Mr. & Mrs. Duncan. The boards concern is the change of the written purpose and change of the application. Chairman Cyr wanted it to be clear to Mr. & Mrs. Duncan that the Zoning Board does not have the power to change the ordinance and he disagrees with that.

Wayne Flynn asked the Duncan's if they intended to file monthly rooms & meals taxes for the proposed units? Mr. Duncan said if it was required by the state then he would do so. Mr. Cyr wanted to refer to the statute regarding rooms and meals tax. Chairman Guay read out loud the information under RSA 78:A, Meals and Rental Laws for the board members. A very long & lengthy discussion was had amongst the board members and the Duncan's regarding the definition of apartments and/or tourist accommodations. Chairman Cyr said conditions and stipulations would have to be listed and met before a variance could be granted. Chairman Cyr referred to the word "Confiscatory". Chairman Cyr asked if there were any further questions from the public; there being no further public questions, the public session was closed.

Deliberations amongst both boards regarding the merits of the Duncan case were had. Code Enforcement Officer John Scarinza stated his only concern was there was no definition for hotel or motel in the Towns Zoning Ordinance. Mr. Scarinza will research the information and provide the board members with copies of the RSA which defines hotel & motel laws. Chairman Cyr stated the spirit of the ordinance needs to be applied evenly and fairly amongst all residents of this town. Item #6, 403B, page 12: Tourist accommodations definition was read out loud to the board members. Town Manager Frost spoke up and pointed out to Chairman Cyr that the Zoning Board has to act on the current Application that the Duncan's submitted, they could not make suggestions or changes to the original document. TM Frost stated if the Duncan's were not satisfied with the Zoning Board's decision that they could withdraw their current application and apply for a building permit. After a lengthy discussion with the Zoning Board members and all present, The Duncan's decided that they wanted to withdraw their application from the Zoning Board and apply for a permit to finish the units. Chairman Cyr stated "For the record Mr. Duncan is formally withdrawing his application for an appeal on the variance."

At 7:28 pm a Motion to Adjourn Joint Meeting was made by Paul and 2nd by Chairman Cyr. All were in favor.

At 7:29 A Motion for the Planning Board to reconvene to discuss **Case #04-2013** was made by Paul, 2nd by Mike, all were in favor.

Planning Board Case #04-2013 – Al Duncan, property located at 129 Main Street- Site Plan Review:

Planning Board was now conducting their meeting. Chairman Guay stated the Site Plan Review that first came before the board was noticed in the paper as a 5 unit weekly rental suite and it has changed multiple times since then and it has not been publically noticed as a hotel/motel. The abutters have not been publically noticed as a hotel/motel. What are the board's wishes on the case? A Motion was made by Mike Waddell, 2nd by Dan that the original notice was sufficient to inform the abutters of the worst case and he believed it was sufficient to proceed. The board wished to have the opinion of the Town Manager. TM Frost expressed her opinion and stated it was the Planning Boards final say, but if she were an abutter she would want to know if there were changes to the original proposal. A roll call vote was done as follows:

ROLL CALL VOTE: Mike Waddell – aye
Earl McGillicuddy – Aye
Dan Buteau – aye
Reuben – aye
Paul – no
Mike Guay – aye

Majority rules.

Chairman Guay wanted it noted that the joint meeting did not adjourn; therefore, the Zoning Board is still in session as a joint board with Zoning and Planning.

The Site Plan Review was noted as 5 unit suites. The Planning Board wanted to be sure the Code Enforcement Officer Concurred that this was not an application that needed a variance? Code Enforcement Officer John Scarinza stated that not knowing the definition of hotel/motel he would like to have the guidance of the Planning Board as to the historical intentions of the ordinance. From an enforcement standpoint going forward it would be very important if the Planning Board approves the units for hotel/motel that the conditions need to be kept within the definition of what the intent is. Code Enforcement Officer Scarinza will follow the decision of the Planning Board regarding issuing the Building Permit to the Duncan's.

Motion to approve Site Plan Review for five units, one of which will be a yearly rental or owner occupied unit; 4 of which would be weekly rental suites with the following conditions listed on the revised plat to show: 1. Snow removal plan. 2. The dimensions of the building and setbacks. 3. The future sign will meet the requirements of the ordinance; and 4. The applicant will abide by all state laws with regard to room accommodations and the plant will include a fire hydrant. Chairman Guay asked Mike to revise his motion and include on the plat that this is a short-term rental and will be covered by room & meals tax if less than 180 consecutive days of occupancy per unit. It will also include that it will state short-term rental not exceed 180 days. The Motion was made by Mike and 2nd by Earl, all were in favor. Site Plan is approved with conditions. Motion is contingent on the plat being registered at the Coos County Registry of Deeds.

This case will need to be continued to the next meeting date of August 15, 2013.

Motion to Continue **Case #04-2013** – Site Plan Review for Al Duncan on conditional approval until August 15, 2013 @ 7:00 pm. Motion made by Paul, 2nd by Mike, all were in favor.

Recommendation from the Zoning Board secretary to ask for a copy of the recorded minutes to be placed in the Site Plan Review File for future reference.

Code Enforcement Officer Scarinza stated that in order for him to issue the building permit the conditions would need to be met by the applicant and the plat will need to be signed.

Old Business:

Continuation of Case #03-2013 – Lot Line Adjustment – Lot Merger: Brouillette/Boisclair/Kelley & Munce and Continuation of Case #04-2013 – 443 Main Street - Chairman Guay reported he had no new information on these cases. These cases will be continued and put on the Agenda for the August 15, 2013 meeting. A Motion to continue these cases until the August 15, 2013 meeting was made by Mike Waddell and 2nd by Dan Buteau. All were in favor.

Code Enforcement Officer stated he issued a Temporary Sign Permit to OC Nails because the pedestal holding the other signs was damaged and could not hold their sign so they asked for a temporary sign and were granted the permit.

New Business:

Application to Merge Lots for Tax Assessment and Land Use filed by Sandra Lemire on behalf of Donald & Sandra Lemire Living Trust for property located at 71 Lancaster Road, TAX MAP #U18, LOTS/PARCELS: 26 & 27, BOOK/PAGE: 896/400 & 896/398 to be known as Map U18 Lot 26 with an address of 71 Lancaster Road. Document signed by Chairman Michael Guay on July 11, 2013. A Motion to Accept the Application was made by Mike Waddell and 2nd by Reuben. All were in favor.

Next Meeting: Work Session with Tara of North Country Council and continuation of above cases is scheduled for August 15, 2013. At the next meeting the board would like to go over non-conforming uses. tourist accommodations, hotel/motel and 9-1-1 addressing for subdivision.

Motion to Adjourn was made by Paul and 2nd by Reuben. All were in favor. Meeting adjourned @ 9:35 p.m.