

Town of Gilmanton  
Zoning Board of Adjustment  
November 15, 2008  
Meeting Minutes  
APPROVED

Chairman Elizabeth Hackett called the meeting to order at 7:00 P.M. Members in attendance were Paul Levesque, Carolyn Baldwin, Israel Willard, Ron LaBelle, and alternate members Wayne Gray and Adam Gilbert. Also present was recording clerk Wendy Keane.

Chairman Hackett gave an overview of the Zoning Board of Adjustment's hearing procedures to the members of the public in attendance and introduced the board.

**Public Hearing Case # 38-2007 – P. Cunningham & J. Lawson: Request for a Variance from Article VII.B.2 to add a 24'. 5" X 9' deck to an existing dwelling on a property that does not meet the minimum 2 acres. Property located at 283 Meadow Pond Rd. in the Rural District, Map 420 Lot 17.**

Paula Cunningham stated that she would like to have permission to construct decking onto her existing structure.

Carolyn Baldwin stated that it appears that the decking has already been completed. Ms. Cunningham stated that they mistakenly began the construction not realizing that they would have to obtain a permit to do so or to appear before the Zoning Board for a variance. They were under the impression when they bought the property that they had the required two acres as needed in the Rural District.

Wendy Keane stated that on the previous maps their property was indicated to have 2.1 acres, however, when the maps were re-done it was found that the applicants have only 1.5 acres.

Israel Willard inquired if the steps on the exterior will lead to second apartment. Paula Cunningham stated that they are there for convenience for access from the ground and that there is not a second living unit in the house.

Ron Labelle inquired if they intend to enclose the deck in the future for living area. Joan Lawson stated that they do not intend to enclose the decks however, may one day want to put screening around the lower deck.

**MOTION: Israel Willard moved to close the public session. The motion was seconded by Paul Levesque. Motion carried 5-0.**

**Public Hearing Case #39-2007 – Thomas & Susanne Peaslee: Request for a Variance from Article VII.B.2 to construct a 12'X16' shed on property that does not meet the minimum 2 acre requirement. Property located at 77 Potter Rd. in the Rural District, Map 418 Lot 13.**

Suzanne Peaslee stated they would like to construct a shed for storage so that they may utilize their garage.

Town of Gilmanton  
Zoning Board of Adjustment  
November 15, 2008  
Meeting Minutes  
APPROVED

Carolyn Baldwin stated that according to the site plan it appears that the shed will be located far from the house.

Suzanne Peaslee stated that there is a rough driveway leading to the proposed area where they would like to place the shed. She further stated that they would like to place the shed in the proposed area because it is closer to the garden.

MOTION: Carolyn Baldwin moved to close the public session. The motion was seconded by Israel Willard. Motion carried 5-0.

**Public Hearing Case #40 - Christine Spaulding: Request for a Variance from Article VII.C.3 to construct a 16'X12' screen porch and an 8'x12' deck to an existing dwelling on a property which does not meet the required 2 acres or 200' frontage on a class V or better road. Property is located at 17 Rainbo Lane in the Rural District Map 104 Lot 1-BG0013.**

John Lines presented a letter from the applicant granting him permission to speak on her behalf. Mr. Lines stated that the applicant is also his mother and that she would like to add a screen porch to the rear of the dwelling for an additional egress from the second floor. He further stated that she would like to put a deck on the side of the house to eliminate the three concrete blocks outside the door, for an area to place the grill and for aesthetics.

Chairman Hackett inquired if the applicant would be objectionable to a condition to the variance, if approved, that the deck or porch never be enclosed for living area. Mr. Lines stated that they do not intend to enclose the porch or deck for living area so it would not be a problem if that condition were to be imposed.

Chairman Hackett inquired where the steps are anticipated to be located for the deck. Mr. Lines stated that the steps would face the roadway. He further stated that the stairs on the screen porch would not further encroach on the rear boundary lines.

Chairman Hackett read four letters from abutters into the record in support of the project. See attached.

MOTION: Paul Levesque moved to close the public hearing. The motion was seconded by Ron Labelle. Motion carried 5-0.

**Public Hearing Case #41-2007 – Jim Gordon: Request for a Variance from Article VII.B.2 to construct a 10'X5' addition and a 10'X8' addition to an existing dwelling on a property which does not meet the minimum 200' frontage on a class V or better road. Property is located at 297 Crystal Lake Rd in the Rural District, Map 111 Lot 4.**

Jim Gordon presented to the Board what he would like to construct onto the existing dwelling.

Town of Gilmanton  
Zoning Board of Adjustment  
November 15, 2008  
Meeting Minutes  
APPROVED

Israel Willard asked for clarification on the plan as he has two in his information packet. Wendy Keane stated that the sketch on the tax card is not correct and to reference the last page of the packet for the sketch and site plan.

Mr. Gordon stated that the plans would essentially square off the house and add additional room for his family. He will not be adding any more bedrooms or bathrooms, only enlarging what exists. Shawn Talbot, the contractor for the project, stated that the construction would not encroach into the required setbacks.

Carolyn Baldwin inquired where the septic tank is located. Mr. Gordon stated that it is in the front of the dwelling away from where any construction would be.

**MOTION: Carolyn Baldwin moved to close the public session. The motion was seconded by Israel Willard. Motion carried 5-0.**

**Public Hearing Case # 42-2007 – Catherine Ruel: Request for a Variance from Article VII.B.2 to place a foundation under and construct a second floor to an existing dwelling on a property which does not meet the minimum 1 acre or 125' of frontage on a class V or better road. Property is located at 16 Spruce Ave., a private road in the in the Residential Lake District, Map 119 Lot 33.**

Wendy Keane stated that she had a letter from Catherine Ruel, granting permission for Andrew Pike to speak on behalf of the project in her absence.

Andrew Pike stated that the property is in the process of being surveyed and Chuck Noddin is creating a septic design.

Chairman Hackett inquired if the property would be converted into a year round property. Mr. Pike stated that upon completion of the project, the house would be able to be used all four seasons.

Chairman Hackett inquired if the dwelling would remain a two-bedroom dwelling as presently listed on the assessment card. Mr. Pike stated that there would only be two bedrooms. Mr. Pike further stated that they will remain within the existing footprint and only be adding a foundation and second floor if approved for the variance.

Carolyn Baldwin stated that according to Article VII.B.4, if the property were uninhabitable then the applicant would be able to reconstruct within the same footprint without having to come to the ZBA. Mr. Pike stated that they would still need the variance for the addition of the second floor.

Discussion was held between the Board and the applicant's representatives on the different aspects of the proposed project.

There was discussion on the septic as well as reconstruction of the existing structure.

**Motion: Ron Labelle moved to close the public hearing. The motion was seconded by Carolyn Baldwin. Motion carried 5-0.**

**DELIBERATIVE SESSION:**

**Case # 38-2007 – P. Cunningham & J. Lawson:**

The Board discussed the application and the fact that the decks had already been constructed.

Chairman Hackett stated that this has come before the Board in the past and they have discussed this issue with Bob Flanders. Unfortunately people are under the assumption that they can do what they want to with their property because they own it and are not familiar with the Ordinances and regulations.

Wendy Keane stated that when the applicants made reference to building a deck, it was brought to their attention that they would require a building permit and that they would need to go before the Zoning Board of Adjustment for a Variance because they do not have the required lot size of two acres in order to construct a deck.

Carolyn Baldwin stated that it is her impression that this was an honest mistake because as it was stated in the testimony, the applicants were under the impression that they had a little over two acres.

Israel Willard stated that regardless of the lot size, the contractor should have known that he would need a building permit to do the work.

Ron Labelle stated that that the applicants mentioned that the contractor was willing to get the permit however the owners of the property did not think they needed one to build a deck.

Israel Willard stated that there have been far too many applicants who have done the work and come to the Board for a Variance or Special Exception after the fact. He feels as if people are deliberately doing this thinking that the Board will not require them to tear down the non-compliant work that they have done. Mr. Willard inquired if they will have to apply for an after the fact building permit.

Wendy Keane stated that they would have to apply for and pay for an application.

Ron Labelle inquired if Bob Flanders has the discretion to place a fine on the work. Wendy Keane stated that yes, there would be a fine imposed for the work being done without a permit.

**MOTION: Ron Labelle moved to grant the Variance for the decks as proposed on the site plan and sketch submitted of a 24'.5"X9'.5" deck with a 4'x4' landing and 36'X11'.8" stairs. With the findings that there would be no diminution of value of surrounding properties, that granting the Variance would not be adverse to the public interest, that denial of the Variance would result in unnecessary hardship to the applicant and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. A condition of the variance is that the deck never be enclosed as living area.**

**The motion was seconded by Paul Levesque. Motion carried 4-0.**

**Case #39-2007 – Thomas & Susanne Peaslee:**

The Board discussed the proposed location of the shed.

**MOTION: Paul Levesque moved to grant the variance to construct a 12'X16' shed as proposed in the application with the findings that: There would be no diminution of value of surrounding properties, that granting the Variance would not be adverse to the public interest, that denial of the Variance would result in unnecessary hardship to the applicant and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. This variance is granted with the condition that there not be plumbing installed and shall never be converted into living area.**

**The motion was seconded by Israel Willard. Motion carried 5-0.**

**Case #40 - Christine Spaulding:**

Carolyn Baldwin stated that her concern is the proposed location of the deck and how close it would be to the abutting house.

The Board discussed the previous application of Francis Fitzgerald and the measurements on his site plan when he applied for a Variance. The Board stated that the house appears to have been constructed outside of the area that had been proposed, moving it closer to Ms. Spaulding's house. The Board requested that Wendy Keane speak with Bob Flanders about the possible miscalculation and placement of the Fitzgerald home.

The Board was concerned that with the placement of a deck there would only be approximately 25' feet or less between the two dwellings. Because the area where the structure is located is a private development, the homeowners do not actually own any of the land therefore there are no property lines to delineate lots. There was much discussion held on the distance between the proposed deck and Mr. Fitzgerald's existing foundation. Carolyn Baldwin stated that even

Town of Gilmanton  
Zoning Board of Adjustment  
November 15, 2008  
Meeting Minutes  
APPROVED

without the lot lines delineated, the meaning of the spirit of the ordinance is so that there is 40' between dwellings based on the regulations of Article IV Table 2.

Discussion continued on the placement of the Fitzgerald foundation and the distance from it to the proposed deck.

**MOTION: Ron Labelle moved to grant the Variance to construct a 16'X12' screen porch on the rear of the structure as well as an 8'X12' deck with the findings that: There would be no diminution of value of surrounding properties, that granting the Variance would not be adverse to the public interest and the abutters have expressed their support of the proposed project, that denial of the Variance would result in unnecessary hardship to the applicant and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. This Variance is granted with the conditions that the screen porch shall not be turned into year round living area, the steps shall not further encroach upon setbacks and the deck shall not be enclosed for future living area.**

The motion was seconded by Paul Levesque. Motion carried 4-1.

**Case #41-2007 – Jim Gordon:**

The Board discussed the application and that the property owner, though he has 2+ acres of land as required, the lot lacks road frontage. Chairman Hackett stated that although the lot is only 90+/- feet wide, it is 3,000 in length and the proposed additions would not encroach upon the setbacks as required in Article IV Table 2.

**MOTION: Carolyn Baldwin moved to grant the Variance to extend the existing screen porch and to allow the 10'X5' addition to be constructed with the findings that: There would be no diminution of value of surrounding properties, that granting the Variance would not be adverse to the public interest , that denial of the Variance would result in unnecessary hardship to the applicant and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. This Variance is granted with the condition that the screen porch shall not be turned into year round living area.**

The motion was seconded by Israel Willard. Motion carried 5-0.

**Case # 42-2007 – Catherine Ruel:**

**MOTION: Israel Willard moved to table the application to a time specific, until a septic design is submitted by the applicant. Carolyn Baldwin added that she would also like to add that the Building Inspector be contacted and asked for his opinion on the soundness of the structure and whether Article VII.B.4 would apply.**

The Board held discussion on the interpretation of Article VII.B.4. The ordinance reads” ..may be repaired rebuilt or replaced only if the former structures footprint is exactly followed and the non-conformity with this Ordinance is not increased” By adding a second floor, the non-conformity would be increased on the property therefore a Variance will be needed for approval for the second story.

Carolyn Baldwin seconded the motion to table the application, time specific to the December meeting, and that a septic design be submitted by the applicant and the Building Inspector assess the property. Motion carried 5-0.

**Other Business:**

Chairman Hackett notified the Board that the Planning Board is having a work session on Wednesday November 28<sup>th</sup>, 2007 to discuss zoning amendments. Wendy Keane stated that Lynne Brunelle will be sending out an email to the Board in regards to this. Wendy Keane further stated that it is a work session to discuss clarification on some of the ordinances as well as possible new ordinances if necessary.

Minutes: MOTION: Ron Labelle moved to accept the minutes from the October meeting as amended.

Chairman Hackett gave a brief overview of the classes she attended at the Annual LGC Conference. Wendy Keane made copies of the materials that she and Chairman Hackett received from the different classes and distributed them to the Board members.

Chairman Hackett stated that the law reads that abutters and applicants have the right to speak in regards to an application. Chairman Hackett sated that she does allow concerned citizens to speak, however does not have to by law. There was a brief discussion among the Board in regards to this.

MOTION: Paul Levesque moved to adjourn. The motion was seconded by Ron Labelle. Motion carried 5-0.

Chairman Hackett adjourned the meeting at 9:35 p.m.

Respectfully submitted,

Wendy L Keane

Town of Gilmanton  
Zoning Board of Adjustment  
November 15, 2008  
Meeting Minutes  
APPROVED

**Recording Clerk**

**THESE MEETING MINUTES ARE NOT OFFICIAL UNTIL VOTED ON BY THE  
ZONING BOARD OF ADJUSTMENT**