

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 19, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Board members in attendance: Elizabeth Hackett, Carolyn Baldwin, Ron LaBelle, Isreal Willard, Paul Levesque, Wayne Gray (alternate).
Also attending was Land Use Clerk Annette Andreozzi.

Chairman Elizabeth Hackett called the meeting to order at 7:02 PM

The Chair made introductions and explained ZBA meeting procedures.

1. **Public Hearing Case #03-2009 – Michael & Lillian DePasquale Trust:** Request for Variance from Article IV Table 2, to build single-family dwelling on a lot which lacks sufficient acreage and frontage. Rural zone requirement minimum area two acres with 200 feet lot frontage. Property located on Varney Road, across the street from 127 Varney Road, on a .78 acre lot with 150 feet frontage in the Rural Zone; Town Tax Map/Lot #106-37.

The Chair indicated a letter was on file granting permission for Nick DePasquale to act on behalf of his parents. Mr. DePasquale was in attendance.

Mr. Willard made a motion: To not hear Case #03-2009 based on Section-4, # 6 [this referenced an old form that had different numbering] **of the application for a variance, no approved septic plan submitted.** The application stated "Is a septic system approval from the NH Water supply & Pollution Control Commission necessary for the proposed construction? If so, the approval site plan must be submitted with your application."

Mr. DePasquale stated that he was hoping to get conditional approval of the variance for the frontage and lot size before spending the money for an approved septic design. He understood that he couldn't build without an approved septic plan. The Board's packet did include a septic plan drawn by a engineer and information about the soils in the area.

Mr. Willard said his motion still stands because the Board has no perk test. Ms. Baldwin seconded the motion for purposes of discussion, but didn't feel it was fair to ask the applicant to spend the dollars for an approved septic design when he may still get turned down for other reasons. Mr. Willard said that it costs about \$800 for a design. Ms. Baldwin stated the Board should step back and rethink the rule about requiring the septic design approval before an application is accepted.

Ms. Hackett said that the ZBA application says approval is needed, but in all fairness the ZBA has granted conditional approval without an approved septic design. She asked what the Board members felt. Mr. Gray was not sure \$800 would cover an approved septic design. Mr. LaBelle wanted to know if the approval from the state was necessary. Mr. Willard said it would cost \$100

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 19, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

additionally to get state approval. Mr. Levesque said the application is not complete. Ms. Baldwin said to go with the rule we have which states "the approved site plan must be submitted with the application".

Ms. Hackett said the Board could continue the case to time certain.

Mr. DePasquale said he is trying to find out if the Board will prevent him from building based on his acreage or frontage. Ms. Hackett said she couldn't make any promises. Usually frontage is not as important as the septic and setbacks.

Mr. Willard withdrew his motion, and Ms. Baldwin her second.

Mr. Willard motioned to postpone Case #03-2009 to the March meeting when the applicant must submit an approved septic plan. Ms. Baldwin seconded.

Motion carried Unanimously.

2. **Continued Case #01-2009: Ronald G. & Barbara E. Ferland:** Request for Variance from Article IV Table 2 which requires 2 acres in the Rural Zone for Map/Lot #110-43 of 1.06 acres. Applicants are requesting Boundary Line Adjustment to transfer .46 acres of 1.06 acres from Map/Lot #110-43 to Map-Lot #110-44 (presently .15 acres), and transfer .22 acres to Map/Lot #110-45 (presently .3 acres). Properties located at 41, 45, & 49 Justamere Lane in the Rural Zone.

Mr. Gray was seated for Mr. Levesque because Mr. Gray had heard the beginning of the case last week.

Mr. Ferland pinned an updated map on the wall for the Board to see.

There was a discussion about the shed that is located on the Ferland/Green property line. It does not meet setback requirements and there is no variance for it. Ms. Hackett stated her understand was that all structures must be set back 20', if we approve this case the board may be setting up a future problem. She asked Mr. Green if he would be willing to move his shed. Mr. Green indicated that he did not want to move the shed, but it was possible.

Mr. Levesque needed clarification about the potential size of the three lots.

Mr. LaBelle asked how far the Ferland shed was from the private road. Mr. Ferland said it had been a tree house, and now it is a shed on cement blocks. Mr. LaBelle wanted to know if the Board needed to make a condition related to the set back of the Ferland shed. It was decided that since it was a private road and there was no buildable lot adjacent, that the set back was not relevant.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 19, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Motion by Mr. Willard and second by Ms. Baldwin to close the public hearing. Unanimous.

Ms. Hackett indicated that this was the first regular meeting of the ZBA this year and the Board needed to elect a chair for this year.

Ms Baldwin nominated Ms. Hackett to continue as chair. Second by Mr. Willard. Vote was unanimous.

DELIBERATIVE SESSION:

Case #01-2009: Ronald G. & Barbara E. Ferland: Request for Variance from Article IV Table 2 which requires 2 acres in the Rural Zone for Map/Lot #110-43 of 1.06 acres. Applicants are requesting Boundary Line Adjustment to transfer .46 acres of 1.06 acres from Map/Lot #110-43 to Map-Lot #110-44 (presently .15 acres), and transfer .22 acres to Map/Lot #110-45 (presently .3 acres). Properties located at 41, 45, & 49 Justamere Lane in the Rural Zone.

Ms. Hackett asked the board if they had any concerns, as the well radii had been marked on the map as requested.

Ms. Baldwin stated that if the septic need replacing there would be more room to do that. Mr. Gray agreed.

Mr.LaBelle moved to grant a variance for Case #01-2009: Ronald G. & Barbara E. Ferland: Request for Variance from Article IV Table 2 as stated in their application

- a. That by granting the variance, there would be no diminution of value to the surrounding properties, two properties would increase in value;**
- b. The granting of the variance would not be contrary to the public interest;**
- c. There would be no unnecessary hardship to the owner;**
- d. By the granting of the variance, substantial justice will be done; and**
- e. The proposed variance is not contrary to the spirit of the Ordinance.**

CONDITION: The shed on lot 44 to be moved to meet the side set back of 20'.

Mr. Willard seconded the motion.

Mr. Gray stated the Board is just approving a lot line adjustment, not any buildings or compliance, the shed is a code enforcement issue. Ms. Hackett indicated the shed on the Ferland/Green line would now be on the Green property with some distance from the new property line, but not the required 20'. Ms. Baldwin said the Board would not be approving where the shed is, just the lot line adjustment; it is not unreasonable to make a condition for moving the shed to comply with

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 19, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

setbacks. We would eliminate the issue for future problems related to the shed's setback.. Mr. Gray said he didn't see that the board would be approving that setback.. Ms. Hackett said the Board would be. Mr. Gray stated it would be a financial burden to move the shed.

The motion passed 4-1.

3. APPROVAL OF MINUTES

MOTION: Ms. Baldwin moved to approve the minutes of the October 16, 2008 meeting as amended, seconded by Mr. Levesque. **Motion passed unanimously.**

MOTION: Ms. Baldwin moved to approve the minutes of the November 20, 2008 meeting as amended, seconded by Mr. LaBelle. **Motion passed unanimously.**

4. OTHER BUSINESS

The flyer for the May 2, 2009 OEP Planning & Zoning Conference was pointed out. Ms. Andreozzi suggested that the members go on line and sign up so OEP can notice the members directly.

It was decided that a discussion of Section 4 # 6 [this was a reference to an older form] of the ZBA application should be on the March agenda.

ADJOURNMENT: On a motion made by Mr. Levesque and seconded by Ms. Baldwin to adjourn, vote passed unanimously. **Meeting adjourned at 8:14 p.m.**

Respectfully submitted,

Annette Andreozzi, Land Use Clerk