

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, MAY 21, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Chairman Hackett called the meeting to order at 7:05 pm. Members in attendance were Elizabeth Hackett, Carolyn Baldwin, Israel Willard, Ron LaBelle. Also in attendance were Alternate Member Wayne Gray and Land Use Clerk Annette Andreozzi.

Mr. Gray was seated as full voting member for this session.

The Chair made introductions and explained the ZBA procedures.

Continued 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.

Mr. DePasquale called the office to relate that he had just received the report from the wetland scientist, and because of the location of wetlands and the size of the lot, they did not think he would be able to locate a septic & house on the property. So he is withdrawing his application.

Continued Case #05-2009 - John & Claire Wilkens

Request a Special Exception to Article IV, Table 1, to operate a service business [kennel & dog training] in a Rural Zone. Property of 30 acres located at 741 Province Road. Town Map/Lot #414-79.

MOTION: Mr. Willard moved to reopen the public hearing on case #05-2009.
Seconded by Ms. Baldwin. **Vote unanimous in favor.**

Ms. Guldbrandsen, the attorney for John Wilkens, indicated that the board should have a letter that she submitted about the operator of the dog training facility. She received the letter from DOT that stated the driveways on the 2 properties do not comply with the DOT permit, but she said that the May 10, 2007, planning board minutes say that Joanne & John Wilkens were supposed to share the driveway that goes through the parking lot. The surveyor's plan of December 2008 makes reference to the shared driveway. The kennel was an existing business but it was not used for at least 1 year. She also showed pictures of the shrubs that were planted per the 1987 conditions, and she felt the conditions had been met. Ms. Guldbrandsen stated for the record her objection that a communication had been made between a ZBA board member, Ms. Baldwin and an abutter.

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Many of the ZBA members indicated that they are on various committees with the abutter. Ms. Hackett polled the board relating to their thoughts if Ms. Baldwin should recuse herself. The Board felt that if every one in town recused themselves for speaking to any abutters or applicants, there wouldn't be enough people to serve on the boards.

A memo was passed out to the Board from Attn. Wood, representing abutter Joanne Wilkens. In the memo he listed concerns that he felt needed to be addressed before granting the special exception. Some of the items related to the planning board.

Concerns:

The Principle question is the driveway. He showed a picture of how the driveways had been proposed. There is nothing in the deeds that refer to a shared driveway.

The current sign is placed too close to Joanne's residential property.

The dog areas should be buffered visually and for sound.

Exterior lighting should be down cast.

Because of the nature of the dogs being trained the fences should be constructed to corral the dogs.

The applicant should be in compliance with state licensing statutes.

Proper care and feeding of the dogs should be provided.

There was a discussion about the driveways. Joanne stated that the driveway concept was not done in 2004 because her mom was sick, and then died. The trust had to pay down a reverse mortgage. She has been in touch with the applicant about Joanne's son doing the driveway. Ms. Gulbrandsen stated that the applicant does not want to pay for the driveway.

Ms. Baldwin indicated that the discussion was getting into site plan issues.

Atty. Wood wanted the Board to be clear that Joanne is not objecting to the kennel, but they want the issues on the submitted list to be addressed.

Ken Murphy, who will be leasing the property was asked some questions.

He stated that he would be doing training between the hours of 8 AM – 6 PM, that one or 2 days a week he would go to 7 PM, indoors; and that there would be about 6 dogs.

They have installed cameras to watch any dogs left overnight and the applicant will take care of any problems with overnight dogs.

MOTION: Mr. Willard moved to close the public hearing. Seconded by Mr. Gray. Motion was passed unanimously.

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Continued Case #04-2009 - Mark A. Padula: Request for Variance from Article IV Table 2, requiring 200 feet frontage in the Business zone to build on a lot. Property located at 193 NH Route 106 in the Business Zone has 195 feet of frontage. Town Map/Lot #412-17.

Mr. Padula called the office and relayed that he met with a DOT representative last Friday and they have determined 3 options, but one has not been settled yet. Due to a family circumstance he was not be able to attend the meeting, but asked to have his case continued to the next regular meeting.

MOTION: Ms. Baldwin moved to continue case #04-2009 to June 18, 2009 as requested by applicant.. Seconded by Mr. LaBelle. **Motion passed unanimously.**

Public Hearing Case #08-2009 – Brian D. Crockett, LLS: Request for a Variance from Article IV, Table 2, requiring 200 feet of frontage on a class 5 road to build on a lot. Property of 14.14 acres located on Stage Rd. with 71.29 feet of frontage on class 5 road in the Rural zone. Town Map/Lot #424-18.

Mr. Crockett stated that the septic design has been approved by the state. He then put a map of the lot on the board.

Ms. Baldwin could not tell where the property was located. Mr. Crockett pointed out Stage Road and explained that Gilman Road had long been discontinued and where it intersected Stage was where the property is located. He pointed out where the house would be located, 750 ' from Stage Road on the high spot. The driveway would follow along former Gilman Road then turn up to house. Ms. Hackett was concerned about crossing the wetlands. Mr. Crockett said they were in the process of getting a wetland permit from the state.

Mr. Lake, attorney for the property owners, Publicover, stated that if this variance is denied the property becomes worthless.

Ms. Hackett said that when the special exception is granted it would be just for the house not a garage because it was not on the application.

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Mr. Willard asked for clarification of which people in audience about the Publicover's property? Mr. Comeiro and the Publicovers share the former Gilman Road as a boundary. Mr. Babcock's property is across Stage Road. He asked Mr. Comeiro who uses Gilman Road? Mr. Comeiro was concerned about the roadway and the water that crosses and if the snowmobile run would be shut down, but said that no one else has use of road. Mr. Crockett stated the run could be reconfigured.

Mr. Babcock was concerned with water on the easterly side of property, and if the town will have to do maintenance on Gilman Road. Mr. Crockett stated that Gilman Road is private property and any culverts will be the property owners responsibility. Mr. Willard asked Mr. Babcock if he was opposed to the Publicovers building a house? Mr. Babcock said he was opposed because Mr. Publicover said he would sell the land to him. Mr. Comeiro's concern was if Gilman Road is used as an entrance it needs to be widened; it gets sloppy when wet. Mr. Publicover said he wants to make the drive way safe for fire trucks; this is his retirement home

Motion: Mr. Willard moved to close Public Hearing Case #08-2009

Seconded by Mr. LaBelle. The motion **passed unanimously.**

DELIBERATIVE SESSION:

Case #05-2009 - John & Claire Wilkens

Request a Special Exception to Article IV, Table 1, to operate a service business [kennel & dog training] in a Rural Zone. Property of 30 acres located at 741 Province Road. Town Map/Lot #414-79.

Ms. Hackett stated that the board heard the information, and received the information that they requested at the last meeting.

Mr. Willard asked that all the questions from last meeting be stated. Ms. Hackett said that they wanted to know the status of the driveway, the screening shrubs, the leasing arrangement, operating hours, supervision of kenneled dogs, and how many dogs that he would have on the site. We have asked Mr. Murphy about the kennel operations.

There was a discussion about what the ZBA should consider and what should be done by the planning board.

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MOTION made by Mr. Willard to grant the request for a special exception in Case #05-2009 - John & Claire Wilkens to operate a service business [kennel & dog training] in a Rural Zone. Property of 30 acres located at 741 Province Road. Town Map/Lot #414-79.

- a. It is in an appropriate location.
- b. The use will not effect the neighborhood.
- c. The value of the property will increase because presently it is in disarray.
- d. There is no nuisance or hazard; it has been a kennel before with no problems.

CONDITIONS:

Any additional requirements in Article 10 are complied with. The property is subject to site plan approval and the Planning Board's specifics concerning parking, screening, driveway access, and a separation along the lot line.

Seconded by Ms. Baldwin.

Motion passed unanimously.

Case #08-2009 – Brian D. Crockett, LLS: Request for a Variance from Article IV, Table 2, requiring 200 feet of frontage on a class 5 road to build on a lot. Property of 14.14 acres located on Stage Rd. with 71.29 feet of frontage on class 5 road in the Rural zone. Town Map/Lot #424-18.

It was clarified that Gilman's property is the boundary of the Publicover and Comeiro property, and belongs to them; it has not been town property for a long time.

Mr. LaBelle asked if there should be a condition about getting a wetlands impact approval.

MOTION: Ms. Baldwin moved to grant the variance for Case #08-2009 – Brian D. Crockett, LLS: Request for a Variance from Article IV, Table 2, requiring 200 feet of frontage on a class 5 road to build on a lot. Property of 14.14 acres located on Stage Rd. with 71.29 feet of frontage on class 5 road in the Rural zone. Town Map/Lot #424-18.

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- a. That by granting the variance, there would be no diminution of value to the surrounding properties because it is a permitted use in that area, there is no immediate abutter to the house site therefore there would be no adverse effect.
- b. The granting of the variance would not be contrary to the public interest in that it is a 14 acre lot and has some frontage on a class five road.
- c. The denial of the variance could result in unnecessary hardship to the owner because there is no other reasonable use of the land and homes are permitted in the zone.
- d. By the granting of the variance, substantial justice will be done because the property cannot be used unless a variance is granted.
- e. The proposed variance is not contrary to the spirit of the Ordinance.

CONDITIONS: All wetlands impacts have state approval and the driveway is improved sufficient to accommodate entering emergency vehicles.

Seconded by Mr. LaBelle. **Motion passed unanimously.**

APPROVAL OF MINUTES

MOTION: Mr. Willard moved to approve the minutes of the April 16, 2009 meeting. Seconded by Ms. Baldwin. **Motion passed unanimously.**

OTHER BUSINESS

The Board agreed to a joint meeting with the Planning Board on June 18, 2009.

ADJOURNMENT: On a motion made by Ms. Baldwin and seconded by Mr. Gray the meeting adjourned at 9:16 pm. **Motion passed unanimously.**

Respectfully submitted,

Annette Andreozzi, Land Use Clerk