

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 17, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Vice Chairman Baldwin called the meeting to order at 7:00 pm. Members in attendance were Carolyn Baldwin, Israel Willard, Paul Levesque, 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.

Ms. Baldwin made introductions and explained the ZBA procedures.

Public Hearing Case # 17-2009 – Brett Currier: Request for Variance from Article IV Table 2, to build a single family home on a lot with approximately 177 feet of Class V road frontage, zoning requires 400 feet. Property located at the end of Sawyer Lake Road in the Conservation Zone; Town Tax Map/Lot #117-4.

Mr. Currier stated that there is 202' of frontage if the end of Sawyer Lake Road is counted. He is just requesting a variance for road frontage, all set backs are met and they have a state approved septic design. He stated that in his opinion there would be no diminution of property values, the new residents will meet all the current zoning regulations and building codes, and the building won't be seen from anywhere so it won't have a negative impact on abutters. A benefit to the public would be another residence in this area which would help control the litter problem. There is a serious dumping problem, that if stopped would increase the value of the surrounding properties. It would be an unnecessary hardship on the owner if the variance is not granted because the lot is a building lot of record. The frontage requirement deprives the owner of reasonable use. The public would not be negatively affected by granting of variance. Justice would be done because the owner has been paying taxes for 25 years, and the property could only be used as a wood lot. These kinds of variances are granted by the ZBA all the time. The Conservation Board has signed an expedited permit, but there was no copy of same for the record. By the time the grading is complete there will be a reasonable slope on the lot. The Fire Chief said his apparatus will be able to make it up there.

Ms. Baldwin asked if the driveway was going from the end of Sawyer Lake Road using the discontinued roadway. Mr. Currier said yes he was working with the abutter Mr. Peterson on the discontinued road for a driveway.

Ms. Baldwin asked if the property is in current use. Mr. Currier said no.

Mr. LaBelle asked if they were planning on doing the second driveway option as suggested by Kathleen Surowiec, certified wetland scientist. Mr. Currier said yes, then

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 17, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

showed a plan by Ms. Surowiec which he said had been presented to the Conservation Commission and referenced a Wetland Bureau expatiated application form which the Conservation Commission has, but is not available for the file. Mr. Currier also stated that the town road agent, Paul Perkins had no issue with the proposed driveway.

The only public comment came from Paul Hornfelder who stated that it is a good idea to have another settlement in that area, because that would help stop the dumping.

Mr. Willard moved to close Public Hearing Case # 17-2009.

Seconded by Mr. Gray.

Motion passed Unanimously.

Public Hearing Case # 18-2009 – Bonnie Martin: Request for Variance from Article IV Table 2, to replace the existing single family home with a more conforming new home & garage on .31 acres and 5 feet +/- into the side setback, zoning requires 2 acres for new construction. Property located at 49 NH Route 140 in the Rural Zone; Town Tax Map/Lot # 411-10.

Ms. Martin stated that the house on her property had been lived in for 20 years, but is now beyond repair. She wants to build a new house that she likes. Ms. Martin showed pictures of the current state of the house and a drawing of what the new house would look like. She indicated that the taped out area on the property is were the new house will be.

Mr. LaBelle asked how the new house will be more conforming. Ms. Martin said it will be only about 5 feet in setback instead of the present 20 feet.

Ms. Baldwin wanted to know if the house is condemned. Ms. Martin said, not officially.

Mr. LaBelle asked if the septic was up to date. Ms. Martin said yes.

Mr. Gray asked for the exact figure the new house would be in the setback. Steve Converse, the builder indicated 5' on Canaan Road and two feet on the garage side.

Ms. Baldwin ask if all present structures on the property are going to be removed. Ms. Martin said yes, after all construction is finished.

Mr. Gray asked if there are set back requirements for propane tanks. (The set backs are the same). Ms. Martin said the tank on the plan in the folder has been removed.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 17, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

A member of the public, John Maron asked if 2 acres were needed to build. Ms. Baldwin indicated that Ms. Martin could build in the same footprint of her present house without permission, but she wants to put the new house in a different location which will be less non conforming.

Mr. Levesque moved to close Public Hearing Case # # 18-2009.

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

DELIBERATIVE SESSION:

Case # 17-2009 – Brett Currier: Request for Variance from Article IV, Table 2, to build a single family home on a lot with approximately 177 feet of Class V road frontage, zoning requires 400 feet. Property located at the end of Sawyer Lake Road in the Conservation Zone; Town Tax Map/Lot #117-4.

MOTION:

Mr. LaBelle moved to grant a variance from Article IV Table 2 to Brett Currier: Case # 17-2009 to build only a single family home on a lot without the required amount of Class V road frontage, zoning requires 400 feet. Property located at the end of Sawyer Lake Road in the Conservation Zone; Town Tax Map/Lot #117-4.

- a. That by granting the variance, there would be no diminution of value to the surrounding properties based on the fact that a abutter is in favor of the development;
- b. The granting of the variance would not be contrary to the public interest;
- c. The denial of the variance could result in unnecessary hardship to the owner seeking it; because the owner would not be able to use the property as they would like to;
- d. By the granting of the variance, substantial justice will be done;
- e. The Fire chief has indicated that safety vehicles will be able to reach the house;
- f. The proposed variance is not contrary to the spirit of the Ordinance; and
- g. The driveway will be the second one, which is preferred by the wetlands scientist.

CONDITION:

There will be no further subdivision of Map/Lot # 117-4.

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

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 17, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Case # 18-2009 – Bonnie Martin: Request for Variance from Article IV Table 2, to replace the existing single family home with a more conforming new home & garage on .31 acres and 5 feet +/- into the side setback, zoning requires 2 acres for new construction. Property located at 49 NH Route 140 in the Rural Zone; Town Tax Map/Lot # 411-10.

MOTION:

Mr. Levesque moved to grant variance from Article IV, Table 2 to Bonnie Martin: Case # 18-2009 to replace the existing single family home with a more conforming new home & garage which will be 5 feet into the setback on the Canaan Road side and two feet on the garage side.

- a. That by granting the variance, there would be no diminution of value to the surrounding properties; a new home would increase the values;
- b. The granting of the variance would not be contrary to the public interest;
- c. The denial of the variance could result in unnecessary hardship to the owner seeking it;
- 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:

Prior to a certificate of occupancy being given, all present structures are to be removed from the property.

Mr. LaBelle seconded. **Motion passed unanimously.**

APPROVAL OF MINUTES

MOTION: Mr. LaBelle moved to approve the minutes of the November 19, 2009 meeting. Seconded by Mr. Levesque. Motion passed unanimously.

OTHER BUSINESS

Mr. Willard inquired as to why the Currier application was accepted without an approved septic design (though there was a design approval on the night of the meeting) and no directions to the site. It was decided by the Board that approved septic designs must be submitted BEFORE a ZBA variance application can be accepted by the clerk.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 17, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

There was a discussion about the Planning Board meeting relating to the Zoning Ordinance amendments. Ms. Baldwin attended that meeting and indicated that the amendment would cite the state legislation rather than repeat the wording in the town ordinance.

Ms. Hackett & Ms. Baldwin attended the Selectmen's meeting to facilitate communication. Ms. Baldwin asked that ZBA members be very clear when they are speaking at other meetings, that they are not speaking for the ZBA.

Mr. Gray asked that if a discontinued road has been turned into a private access, who determines if the town takes over its maintenance. Ms. Baldwin indicated that it would be the Selectmen, in response to a layout, with approval of the Planning Board. Mr. Gray asked if there would be a problem if he spoke, as a private citizen, against a private road being taken over by the town. Since the ZBA has no jurisdiction in that area, the consensus was that he could speak without a conflict of interest.

Mr. LaBelle asked how many times a person can apply to extend the time of a variance. Ms. Baldwin stated that a person can not reapply for the same variance if it has been denied, but can apply for an extension of one that was granted.

There was a discussion about the lack of enforcement relating to signs on telephone polls and portable signs. To insure that some action is taken relating to a violation, a written complaint must be filed in the Selectmen's Office.

ADJOURNMENT: A motion made by Mr. Willard and seconded by Mr. LaBelle to adjourn. Vote passed unanimously. Meeting adjourned at 8:15 pm.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk