

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JANUARY 14, 2010 – 7 p.m.
ACADEMY BUILDING
MINUTES

The joint meeting of the Planning Board and the ZBA was called to order by Planning Board Chair, Nancy Girard at 7:06 PM.

Members of the ZBA in attendance were Chairman Elizabeth Hackett, Carolyn Baldwin, Israel Willard, Paul Levesque, and Ron LaBelle.

Members of the Planning Board in attendance were Chairman Nancy Girard, John Funk, Dave Russell, and Dan Hudson.

Also in attendance were Land Use Clerk Annette Andreozzi, and Planning Clerk Desiree Tumas.

The Chair made introductions and explained the procedures of the meeting.

Joint Public Hearing ZBA Case # 1-2010 & PB Case # 0110 – Thomas Argue:

Request for Boundary line adjustment, taking 3 non-conforming lots and making two, and a Variance from Article IV Table 2, requiring two acres for a buildable lot in the Rural zone. Property located on Mountain Road. Town Map/Lot # 416-/2, 3, & 4.

Mr. Argue explained his past visits to the Planning Board, which led him to the present meeting where he is requesting that his 3 nonconforming lots be changed to 2 lots that are just shy of two acres each. He has septic approval for both lots. He had a couple of copies of a plot plan showing that a house would fit on the lots. Mr. Argue thought that the Boards had received copies of the plot plan.

At 7:13 PM Ms. Girard said she had to leave the meeting.

The boards talked about the plot plans amongst themselves.

Mr. Argue said the house was drawn on the plan just to show that a house could be located on the property, not that the drawing shows the final house location.

Ms. Baldwin asked about septic approval for the 2 lots. Mr. Argue showed her the state design approval certificates.

Mr. Funk initiated a discussion about considering the shoreland protection act.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JANUARY 14, 2010 – 7 p.m.
ACADEMY BUILDING
MINUTES

Mr. Argue addressed the conditions necessary for a variance. He read the arguments from his written application.

Nancy Mitchell stated that on the site walk last year, a loon nest was spotted in the wetlands shown on the plan, so it is important that all the rules be followed. Mr. Argue showed the original lot line adjustment map, which showed that the loon nest is much further from his property than one might think, as the wetland area is between the lake and his property.

Mr. Hudson said making 2 lots out of three smaller lots is a no brainer.

Ms. Baldwin moved to close Public Hearing Case # 1-2010 – Thomas Argue
Seconded by Mr. Willard. **Motion passed unanimously.**

Mr. Guarino (Selectman's rep.) arrived at 7:33 PM.

The ZBA recessed at 7:34 PM to reconvene in the conference room at 7:40 PM.

DELIBERATIVE SESSION:

Case # 1-2010 – Thomas Argue: Request for a Variance from Article IV Table 2, requiring two acres for a buildable lot in the Rural zone. Property located on Mountain Road. Town Map/Lot # 416-/2, 3, & 4.

Ms. Baldwin agreed that it is better to have 2 nonconforming lots than three, and the proposed lots are very close to the required size. If the lots had an additional one tenth of an acre the Board would not be hearing this case.

There was a discussion about whether the shoreline protect act would relate to this property. If necessary it would, but the ZBA doesn't have jurisdiction in that area.

Mr. Willard was concerned that the applicant didn't have a driveway permit and if he had enough road frontage. It was determined that the properties had more than enough frontage.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JANUARY 14, 2010 – 7 p.m.
ACADEMY BUILDING
MINUTES

Ms. Hackett indicated that the variance could be approved with conditions that the houses meet setbacks, that there be driveway permits, and DES approval if necessary.

MOTION:

Ms Baldwin moved to grant Case # 1-2010 – Thomas Argue: Request for a Variance from Article IV Table 2, requiring two acres for a buildable lot in the Rural zone, after the three lots become two according to the plans submitted. Property located on Mountain Road. Town Map/Lot # 416-/2, 3, & 4

- a. **The variances of lot size is very minimal;**
- b. **That by granting the variance, the proposed use would not diminish property values, as it is proposed for residential use which is the area zoning;**
- c. **For the same reason the granting of the variance would not be contrary to the public interest because 3 significantly undersized lots are reduced to 2 that closely conform to the zoning requirements;**
- d. **The denial of the variance could result in unnecessary hardship to the owner seeking it because the zoning requirements strictly applied would interfere with the applicant's reasonable use of the property;**
- e. **Given the very minor deviation from the Ordinance, the proposed variance is not contrary to the spirit of the Ordinance.**

CONDITION: All require setbacks including the high water mark of the lake shall be met and necessary driveway permits obtained.

Mr. Levesque seconded. **Motion passed unanimously.**

APPROVAL OF MINUTES

MOTION: Mr. Levesque moved to approve the minutes of the December 17, 2009 meeting as amended. Seconded by Mr. LaBelle. **Vote passed 4 – 0.**

OTHER BUSINESS

Procedure related to incoming correspondence to the Board was discussed. The Board

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JANUARY 14, 2010 – 7 p.m.
ACADEMY BUILDING
MINUTES

recognized that at the last meeting a letter from the public relating to an application was not distributed to the Board. It was decided to make an addition to the ZBA Procedures.

Motion by Ms. Baldwin: Any received correspondence relating to a special exception or variance application must be distributed to all the Board members present at the meeting, prior to the public hearing. Second by Mr. Levesque.
Motion passed unanimously.

Motion by Mr. LaBelle to not have a ZBA meeting in December 2010.
Second by Ms. Baldwin. **Vote in favor 4-1.**

Ms. Baldwin nominated Ms. Hackett as Chair. Mr. LaBelle seconded.
Motion passed unanimously.

Ms. Hackett said she was asked to review a video tape that the Hendersons were submitting for a hearing that took place yesterday. She said that the tape was grainy and she couldn't see much. Ms. Hackett asked the Land Use Clerk, Annette, if there was any decision relating to the Henderson hearing yesterday. No information about the hearing was available. The Board indicated that they would like to be keep up to date on the Henderson court case.

Ms. Hackett stated that she will be writing the report for the "Town of Gilmanton Annual Report".

ADJOURNMENT: On a motion made by Mr. Levesque and seconded by Ms. Baldwin to adjourn, vote passed unanimously. Meeting adjourned at 8:25 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk