

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY, SEPTEMBER 16, 2010 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

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

Members attending: Elizabeth Hackett, Carolyn Baldwin, Israel Willard, Paul Levesque, and Wayne Gray (alternate).

Member not attending: Ron LaBelle.

Also in attendance: Annette Andreozzi, Land Use Clerk.

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

The Chair made introductions and explained the ZBA procedures.

**Continued Public Hearing Case # 13-2010 –Steve & Pam Brooks:** Request for Variance from Article IV Table 2 to build a deck which will be less than 75 feet from the edge of Shellcamp Pond. Property located at 209 Lakeshore Drive in the Rural Zone; Town Map/Lot #131-21.

Mr. Brooks said that he submitted his NH DES permit application, if they approve DES will let him have a max of 12 additional feet in depth for his deck, which is what he is applying for to the ZBA. He will be removing the present deck and building the new one 2 feet lower than the old one is presently. He does not plan to have a roof, nor walls, nor screens. No earth work will be done.

Ms. Hackett confirmed that Mr. Brooks will be doing the work himself. His house sits 59' from the water line. The new deck will be 43' from the water. She verified that Mr. Brooks would be ok with a condition of never making the deck into living space, if the variance was to be granted.

Ms. Baldwin asked if there was an exit from the house under the deck.

Mr. Brooks said no, there is no basement, only a 4 foot crawl space.

**Ms. Baldwin moved to close Public Hearing Case #13-2010 –Steve & Pam Brooks**  
Seconded by Mr. Levesque. **Motion passed unanimously.**

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**DELIBERATIVE SESSION:**

**Case #13-2010 – Steve & Pam Brooks:** Request for Variance from Article IV Table 2 to build a deck which will be less than 75 feet from the edge of Shellcamp Pond. Property located at 209 Lakeshore Drive in the Rural Zone; Town Map/Lot #131-21.

Ms. Baldwin stated that the general pattern of decks in the Shellcamp area is a reasonable use. The variance would need a condition that the NH DES permit be received.

**MOTION:**

**Ms. Baldwin moved to grant a variance in Case #13-2010 – Steve & Pam Brooks to build a deck which will be less than 75 feet from the edge of Shellcamp Pond, according to plans on file with the application. Property located at 209 Lakeshore Drive in the Rural Zone; Town Map/Lot #131-21.**

- a. The granting of the variance would not be contrary to the public interest because the cottage is typical of Shellcamp, and a deck edge that is 43 feet from the water conforms to other decks in the area;
  - b. The spirit of the Ordinance is observed because there is no interference with the uses of others;
  - c. By the granting of the variance, substantial justice will be done because the cottage is typical of the area and a deck is a reasonable use;
  - d. No diminution of value to the surrounding properties has been shown;
  - e. Literal enforcement of the ordinance would result in unnecessary hardship to the property owner seeking it owing to special conditions of the property in that the house is already closer to the water than the ordinance allows, the existing deck is small, and a new deck will increase the use of the property
    - i. a fair & substantial relationship exists between the general public purposes of the ordinance & specific application to this property because the deck will not interfere with how others use their property
- AND
- ii. the proposed use is a reasonable one because it does not interfere with other landowners.

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**CONDITION: The deck is not to be enclosed or converted to additional living space. A NH DES Shoreland protection permit must be received.**

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

APPROVAL OF MINUTES

**MOTION:** Mr. Levesque moved to approve the minutes of the August 19, 2010 meeting as amended, seconded by Mr. Gray. Motion passed unanimously.

OTHER BUSINESS

Copies of a motion from the January 14, 2010 meeting, relating to correspondence was passed out, in reference to a request from the August 2010 meeting.

Reference was made to the law lecture attended the previous night by some members. It was noted that the ZBA can now request expert testimony if there are funds available. There was a discussion relating to a item that came up during the lecture - what should be the procedure when there is a 2-2 vote on a decision of the ZBA. Ms. Baldwin will formulate a policy statement for discussion at the next meeting.

There was a discussion of the Morrill case. There was concern that the time period has lapsed and perhaps they should not be given a building permit without coming back to the ZBA.

**ADJOURNMENT:** Motion made by Mr. Levesque and seconded by Mr. Grey to adjourn, vote passed unanimously. Meeting adjourned at 7:53 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk