

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, NOVEMBER 17, 2011 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:14 PM.
Members attending: Elizabeth Hackett, Paul Levesque, Ron LaBelle.
Member not attending: Israel Willard.
Also in attendance: Annette Andreozzi, Land Use Clerk.

Ms. Hackett indicated that the Board needed to discuss whether the ZBA should require a state approved septic design before the ZBA would accept an application. In reviewing the ZBA application on page 8, section 4, question 5 [“Is a septic design approval from the NH Department of Environmental Services necessary for the proposed construction?”] it was determined that the application does not say that a design must be presented with the application. She stated that the reason the design was being required was that there had been a case when the ZBA gave approval to build and the applicant built without getting a septic system. Attn. Mitchell told Ms. Hackett that the ZBA could not deny an application just because of lack of information. The Board could continue the hearing to allow the applicant to get the information if that information is necessary to making a decision on their application.

Ms. Hackett had asked Attorneys Mitchell & Connell if the ZBA could accept information from the land use clerk during public hearings and deliberations. They stated that the clerk could give any information at any time, but if the information was not included in the packet or public knowledge, and the public hearing had been closed, the hearing should be reopened for the information and accept public comment related to that specific information.

Mr. Levesque & Mr. LaBelle stated that they felt the planning clerk should not be testifying at a ZBA hearing unless a request is made by the ZBA.

Ms. Hackett returned to the question of septic design requirement, stating that the requirement the ZBA now makes probably would not hold up in court. Mr. LaBelle asked if application question #5 was requiring a septic design. Ms. Hackett thought that it did.

The clerk stated that she could change the wording of the ZBA’s Notice of Decisions to state “no building may be started without a building permit”, and a building permit would not be issued without a septic design approval.

Mr. LaBelle wanted to know if question 5 should be changed. Ms. Hackett stated that she wanted to review some new case law before making that decision.

There was a discussion related to Case # 34-2006, which stated that the garage “not be

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converted into living area”. The code enforcement officer had been notified that the garage at 78 Lakeshore Drive was being lived in on weekends. The Officer referenced the definitions for the International Code Council on “dwelling unit” and “living space”, which indicated that the garage was not a dwelling unit therefore it did not have living space. Ms. Hackett suggested that in the future if a building is to be used only as a garage the decision conditions could state “garage/loft can be used only for storage and repair of personal vehicles, and plumbing can only be: a sink for clean up and/or a toilet”.

Mr. LaBelle notified the group that he will be retiring at the end of his term. He is happy with the Board and his experience, but it is time.

APPROVAL OF MINUTES

MOTION: Mr. Levesque moved to approve the minutes of the October 20, 2011 meeting, seconded by Mr. LaBelle. Motion passed unanimously.

OTHER BUSINESS

Ms. Hackett indicated that she gathered information from the LGC conference that she plans to pass on to the Board.

ADJOURNMENT: Motion made by Mr. Levesque and seconded by Mr. LaBelle to adjourn, vote passed unanimously. Meeting adjourned at 8:01 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk