

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:03 PM
Members attending: Elizabeth Hackett, Perry Onion, Mike Teunessen, Nate Abbott & Vicky Fournier.
Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair made introductions and explained the ZBA procedures.

NEW BUSINESS

Mr. Abbott moved to elect Ms. Hackett chair; seconded by Mr. Teunessen.
Ms. Hackett moved to elect Mr. Abbott vice-chair; seconded by Mr. Onion.
Vote was unanimous for both positions.

Public Hearing Case # 2016-00004 David Sanborn, owner: requests a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 25' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

Mr. Sanborn explained that his son-in-law built him a garage on the lot next to his house, thinking a permit had been obtained.

Mr. Onion asked about the maps, wanting to confirm where the garage was in relation to the wetlands because it seemed to be closer than 200' from the wetlands. He also confirmed that ledge prevented the applicant from moving the barn back from the road.

Ms. Hackett asked about the garage size.

Mr. Sanborn said it is 20' x 20'.

Mr. Abbott said there had been a prior canvas structure at that location of canvas, and the house has been where it is since 1973. He wanted to know how the property would drain in relation to the wetlands with the garage in place.

Mr. Sanborn said it drains into a ditch.

Mr. Abbott said that there are multiple ways the ZBA could go. They could condition that the two lots be merged. A condition could be placed that the lots cannot be sold to different owners.

The Administrator noted for the Board that the Road Agent had looked at the garage and felt the placement would not have an impact on the road.

Johnna McKenna, an abutter, asked if the structure was going to be enclosed.

Mr. Sanborn said he wants to enclose it.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Mr. Onion asked if the garage would interfere with Ms. McKenna's view. She said no.

Mr. Onion asked about the small lot across the street.

Mr. Sanborn said the owner of that lot now lives in the south, and he used to put a trailer on that lot.

Mr. Abbott moved to close Public Hearing Case #2016-00004 David Sanborn, owner

Seconded by Mr. Teunessen.

Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2016-00004 David Sanborn, owner

Mr. Onion said there are 2 issues: building an outbuilding on a lot with no residence, and being in the setback. He stated that if the Board has no problem with the garage's placement that issue is ok, but the Board has turned down others that wanted to build an accessory building on a lot with no main building.

Ms. Hackett said that an accessory building is an additional building to a main building; it can't be accessory if no other building is there.

Mr. Onion questioned how allowing this application could be in the spirit of the ordinance.

Mr. Abbott stated that the conditions would be important. Hardship is in the land with the slope and the house that has been there for 45 years with no problems.

Ms. Hackett said the lot is 4 acres, but $\frac{3}{4}$ of it is not usable.

Mr. Abbott said that a condition could be that if the properties are sold they must be merged, but he didn't know if that would be a legal condition.

MOTION:

Mr. Teunessen moved to grant a variance in Case #2016-00004 David Sanborn, owner: requesting a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 20' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

- a. The granting of the variance would not be contrary to the public interest because there has been no stated objection and no evidence presented that it would be contrary, furthermore the applicant demonstrated that limited space on the property would support the structure;**

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

- b. The spirit of the Ordinance is observed because the applicant has taken care that the structure was built tastefully in keeping with the rural nature of the area;**
 - c. By the granting of the variance substantial justice will be done because the applicant is looking to build exclusively for storage;**
 - d. The Board saw no evidence presented that granting the variance would create diminution of value to the surrounding properties;**
 - e. Literal enforcement of the ordinance could result in unnecessary hardship to the property owner seeking it owing to special conditions of the property being the level space on the house lot is occupied with the house and septic, and the adjoining lot is limited in level buildable space, this distinguishes it from other properties in the area,**
 - i. a fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to this property because there is limited space on the property to put a structure due to topographical concerns**
- AND**
- ii. the proposed use is a reasonable one because the covered garage space will protect the owners property.**

CONDITIONS:

- 1. M/L # 131/72 and 131/61 must remain in the same ownership; prior to independent sale of either lot the garage on M/L # 131/61 must be removed before the sale.**
- 2. The garage may be used for storage only; no living space and no additions or changes in height.**
- 3. Landscaping and a catch basin, if necessary, around the garage must divert runoff from the garage roof from directly running into the wetlands or the pond.**

Mr. Abbott seconded.
Motion passed unanimously.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

APPROVAL OF MINUTES – January 21, 2016, meeting

MOTION: Mr. Abbott moved to approve the minutes of the January 21, 2016 meeting as amended. Seconded by Mr. Teunessen. Motion passed unanimously.

OTHER BUSINESS

Ms. Hackett said that there would be a joint meeting with the Planning Board on March 10th, and did the ZBA want to have the other ZBA cases the same night. The ZBA did want all March cases on the 10th.

Mr. Teunessen stated that there were a lot of people doing what they want, then asking after-the-fact for permission. He wanted to know if the ZBA could assess fines.

Ms. Hackett said that the Selectmen are the only ones that could assess fines.

Mr. Abbott said the enforcement is directed by the Selectmen, and that can become political because inspections needs to happen before enforcement. The Selectmen's policy has been to do as few inspections as possible. If the Selectmen task the fire or police departments to do voluntary inspections, the voters will get upset. To make it a requirement, there would have to be a vote of the people.

Ms. Hackett brought up the property on Rte. 107 near the Belmont line where the red house on the road was supposed to be demolished before the new house in back could be occupied. She thinks the back house is occupied because the gate is open and there are lights on.

ADJOURNMENT: Motion was made by Mr. Abbott and seconded by Mr. Teunessen to adjourn. Vote passed unanimously. Meeting adjourned at 8:07 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:03 PM
Members attending: Elizabeth Hackett, Perry Onion, Mike Teunessen, Nate Abbott & Vicky Fournier.
Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair made introductions and explained the ZBA procedures.

NEW BUSINESS

Mr. Abbott moved to elect Ms. Hackett chair; seconded by Mr. Teunessen.
Ms. Hackett moved to elect Mr. Abbott vice-chair; seconded by Mr. Onion.
Vote was unanimous for both positions.

Public Hearing Case # 2016-00004 David Sanborn, owner: requests a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 25' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

Mr. Sanborn explained that his son-in-law built him a garage on the lot next to his house, thinking a permit had been obtained.

Mr. Onion asked about the maps, wanting to confirm where the garage was in relation to the wetlands because it seemed to be closer than 200' from the wetlands. He also confirmed that ledge prevented the applicant from moving the barn back from the road.

Ms. Hackett asked about the garage size.

Mr. Sanborn said it is 20' x 20'.

Mr. Abbott said there had been a prior canvas structure at that location of canvas, and the house has been where it is since 1973. He wanted to know how the property would drain in relation to the wetlands with the garage in place.

Mr. Sanborn said it drains into a ditch.

Mr. Abbott said that there are multiple ways the ZBA could go. They could condition that the two lots be merged. A condition could be placed that the lots cannot be sold to different owners.

The Administrator noted for the Board that the Road Agent had looked at the garage and felt the placement would not have an impact on the road.

Johnna McKenna, an abutter, asked if the structure was going to be enclosed.

Mr. Sanborn said he wants to enclose it.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Mr. Onion asked if the garage would interfere with Ms. McKenna's view. She said no.

Mr. Onion asked about the small lot across the street.

Mr. Sanborn said the owner of that lot now lives in the south, and he used to put a trailer on that lot.

Mr. Abbott moved to close Public Hearing Case #2016-00004 David Sanborn, owner

Seconded by Mr. Teunessen.

Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2016-00004 David Sanborn, owner

Mr. Onion said there are 2 issues: building an outbuilding on a lot with no residence, and being in the setback. He stated that if the Board has no problem with the garage's placement that issue is ok, but the Board has turned down others that wanted to build an accessory building on a lot with no main building.

Ms. Hackett said that an accessory building is an additional building to a main building; it can't be accessory if no other building is there.

Mr. Onion questioned how allowing this application could be in the spirit of the ordinance.

Mr. Abbott stated that the conditions would be important. Hardship is in the land with the slope and the house that has been there for 45 years with no problems.

Ms. Hackett said the lot is 4 acres, but $\frac{3}{4}$ of it is not usable.

Mr. Abbott said that a condition could be that if the properties are sold they must be merged, but he didn't know if that would be a legal condition.

MOTION:

Mr. Teunessen moved to grant a variance in Case #2016-00004 David Sanborn, owner: requesting a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 20' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

- a. The granting of the variance would not be contrary to the public interest because there has been no stated objection and no evidence presented that it would be contrary, furthermore the applicant demonstrated that limited space on the property would support the structure;**

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

- b. The spirit of the Ordinance is observed because the applicant has taken care that the structure was built tastefully in keeping with the rural nature of the area;**
 - c. By the granting of the variance substantial justice will be done because the applicant is looking to build exclusively for storage;**
 - d. The Board saw no evidence presented that granting the variance would create diminution of value to the surrounding properties;**
 - e. Literal enforcement of the ordinance could result in unnecessary hardship to the property owner seeking it owing to special conditions of the property being the level space on the house lot is occupied with the house and septic, and the adjoining lot is limited in level buildable space, this distinguishes it from other properties in the area,**
 - i. a fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to this property because there is limited space on the property to put a structure due to topographical concerns**
- AND**
- ii. the proposed use is a reasonable one because the covered garage space will protect the owners property.**

CONDITIONS:

- 1. M/L # 131/72 and 131/61 must remain in the same ownership; prior to independent sale of either lot the garage on M/L # 131/61 must be removed before the sale.**
- 2. The garage may be used for storage only; no living space and no additions or changes in height.**
- 3. Landscaping and a catch basin, if necessary, around the garage must divert runoff from the garage roof from directly running into the wetlands or the pond.**

Mr. Abbott seconded.
Motion passed unanimously.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

APPROVAL OF MINUTES – January 21, 2016, meeting

MOTION: Mr. Abbott moved to approve the minutes of the January 21, 2016 meeting as amended. Seconded by Mr. Teunessen. Motion passed unanimously.

OTHER BUSINESS

Ms. Hackett said that there would be a joint meeting with the Planning Board on March 10th, and did the ZBA want to have the other ZBA cases the same night. The ZBA did want all March cases on the 10th.

Mr. Teunessen stated that there were a lot of people doing what they want, then asking after-the-fact for permission. He wanted to know if the ZBA could assess fines.

Ms. Hackett said that the Selectmen are the only ones that could assess fines.

Mr. Abbott said the enforcement is directed by the Selectmen, and that can become political because inspections needs to happen before enforcement. The Selectmen's policy has been to do as few inspections as possible. If the Selectmen task the fire or police departments to do voluntary inspections, the voters will get upset. To make it a requirement, there would have to be a vote of the people.

Ms. Hackett brought up the property on Rte. 107 near the Belmont line where the red house on the road was supposed to be demolished before the new house in back could be occupied. She thinks the back house is occupied because the gate is open and there are lights on.

ADJOURNMENT: Motion was made by Mr. Abbott and seconded by Mr. Teunessen to adjourn. Vote passed unanimously. Meeting adjourned at 8:07 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:03 PM
Members attending: Elizabeth Hackett, Perry Onion, Mike Teunessen, Nate Abbott & Vicky Fournier.
Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair made introductions and explained the ZBA procedures.

NEW BUSINESS

Mr. Abbott moved to elect Ms. Hackett chair; seconded by Mr. Teunessen.
Ms. Hackett moved to elect Mr. Abbott vice-chair; seconded by Mr. Onion.
Vote was unanimous for both positions.

Public Hearing Case # 2016-00004 David Sanborn, owner: requests a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 25' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

Mr. Sanborn explained that his son-in-law built him a garage on the lot next to his house, thinking a permit had been obtained.

Mr. Onion asked about the maps, wanting to confirm where the garage was in relation to the wetlands because it seemed to be closer than 200' from the wetlands. He also confirmed that ledge prevented the applicant from moving the barn back from the road.

Ms. Hackett asked about the garage size.

Mr. Sanborn said it is 20' x 20'.

Mr. Abbott said there had been a prior canvas structure at that location of canvas, and the house has been where it is since 1973. He wanted to know how the property would drain in relation to the wetlands with the garage in place.

Mr. Sanborn said it drains into a ditch.

Mr. Abbott said that there are multiple ways the ZBA could go. They could condition that the two lots be merged. A condition could be placed that the lots cannot be sold to different owners.

The Administrator noted for the Board that the Road Agent had looked at the garage and felt the placement would not have an impact on the road.

Johnna McKenna, an abutter, asked if the structure was going to be enclosed.

Mr. Sanborn said he wants to enclose it.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Mr. Onion asked if the garage would interfere with Ms. McKenna's view. She said no.

Mr. Onion asked about the small lot across the street.

Mr. Sanborn said the owner of that lot now lives in the south, and he used to put a trailer on that lot.

Mr. Abbott moved to close Public Hearing Case #2016-00004 David Sanborn, owner

Seconded by Mr. Teunessen.

Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2016-00004 David Sanborn, owner

Mr. Onion said there are 2 issues: building an outbuilding on a lot with no residence, and being in the setback. He stated that if the Board has no problem with the garage's placement that issue is ok, but the Board has turned down others that wanted to build an accessory building on a lot with no main building.

Ms. Hackett said that an accessory building is an additional building to a main building; it can't be accessory if no other building is there.

Mr. Onion questioned how allowing this application could be in the spirit of the ordinance.

Mr. Abbott stated that the conditions would be important. Hardship is in the land with the slope and the house that has been there for 45 years with no problems.

Ms. Hackett said the lot is 4 acres, but $\frac{3}{4}$ of it is not usable.

Mr. Abbott said that a condition could be that if the properties are sold they must be merged, but he didn't know if that would be a legal condition.

MOTION:

Mr. Teunessen moved to grant a variance in Case #2016-00004 David Sanborn, owner: requesting a variance from Zoning Ordinance Article IV Table 1 and Table 2 to build an accessory structure on lot with no main building on lot, and to build the 20' x 20' garage 16' from the road property line making it in the setback by 19'. Property is 4 acres located on Meadow Pond Road, Map/Lot# 420/61, in the Rural zone.

- a. The granting of the variance would not be contrary to the public interest because there has been no stated objection and no evidence presented that it would be contrary, furthermore the applicant demonstrated that limited space on the property would support the structure;**

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

- b. The spirit of the Ordinance is observed because the applicant has taken care that the structure was built tastefully in keeping with the rural nature of the area;**
 - c. By the granting of the variance substantial justice will be done because the applicant is looking to build exclusively for storage;**
 - d. The Board saw no evidence presented that granting the variance would create diminution of value to the surrounding properties;**
 - e. Literal enforcement of the ordinance could result in unnecessary hardship to the property owner seeking it owing to special conditions of the property being the level space on the house lot is occupied with the house and septic, and the adjoining lot is limited in level buildable space, this distinguishes it from other properties in the area,**
 - i. a fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to this property because there is limited space on the property to put a structure due to topographical concerns**
- AND**
- ii. the proposed use is a reasonable one because the covered garage space will protect the owners property.**

CONDITIONS:

- 1. M/L # 131/72 and 131/61 must remain in the same ownership; prior to independent sale of either lot the garage on M/L # 131/61 must be removed before the sale.**
- 2. The garage may be used for storage only; no living space and no additions or changes in height.**
- 3. Landscaping and a catch basin, if necessary, around the garage must divert runoff from the garage roof from directly running into the wetlands or the pond.**

Mr. Abbott seconded.
Motion passed unanimously.

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 18, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

APPROVAL OF MINUTES – January 21, 2016, meeting

MOTION: Mr. Abbott moved to approve the minutes of the January 21, 2016 meeting as amended. Seconded by Mr. Teunessen. Motion passed unanimously.

OTHER BUSINESS

Ms. Hackett said that there would be a joint meeting with the Planning Board on March 10th, and did the ZBA want to have the other ZBA cases the same night. The ZBA did want all March cases on the 10th.

Mr. Teunessen stated that there were a lot of people doing what they want, then asking after-the-fact for permission. He wanted to know if the ZBA could assess fines.

Ms. Hackett said that the Selectmen are the only ones that could assess fines.

Mr. Abbott said the enforcement is directed by the Selectmen, and that can become political because inspections needs to happen before enforcement. The Selectmen's policy has been to do as few inspections as possible. If the Selectmen task the fire or police departments to do voluntary inspections, the voters will get upset. To make it a requirement, there would have to be a vote of the people.

Ms. Hackett brought up the property on Rte. 107 near the Belmont line where the red house on the road was supposed to be demolished before the new house in back could be occupied. She thinks the back house is occupied because the gate is open and there are lights on.

ADJOURNMENT: Motion was made by Mr. Abbott and seconded by Mr. Teunessen to adjourn. Vote passed unanimously. Meeting adjourned at 8:07 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator