

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, MAY 19, 2016 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:02 PM

Members attending: Elizabeth Hackett, Perry Onion, Mike Teunessen, Nate Abbott, Vicky Fournier.

All Members attending.

Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair made introductions and explained the ZBA procedures.

NEW BUSINESS

Public Hearing Case # 2016-00009 James & Wanda White, owners: requests a variance from Zoning Ordinance Article IV Table 2 to replace a non-conforming house & separate garage with a house, deck, & connecting garage that covers more space, but are located in the same general area. Building will not meet the lake setback, side setback or road setback. Property is .32 acres located at 25 NH Route 106, Map/Lot# 134/5, in the Rural zone.

Dan Ellis was representing the Whites. Mr. Ellis had bigger copies of the plans that had been submitted with the application. He stated that the property had 120' on Rocky Pond, and 220 square feet would be all that was left on the lot if all setbacks were met. He explained that the lot was developed before zoning. Part of the existing building was a store in the 1950's, then it became a home. Due to its age it was not feasible to renovate. He stated that Zoning allows for redevelopment of non-conforming lots. The existing house would be removed. The new house's foundation would be further from the water than the present foundation. The garage would be built in the same location, but would have an addition of a one foot overhang all around for water runoff. The new house would include a lakeside deck. He said a deck on lake property has come to be expected. He said that when considering the protection of the lake, having a deck close to the water is different from a house because there will be a permeable surface under the deck. There will be a new septic system. There will be a storm water management trench under the overhangs to catch water. The house is being enlarged, but some existing walkways will be removed and a portion of the driveway replaced with permeable material. He will submit the State Shoreland application. Two abutters have sent letters of support. The total footprint square footage will be 2245 with overhangs, garage, and deck.

Ms. Hackett asked about moving the whole thing toward the other side of the lot.

Mr. Teunessen reiterated that they were not planning to remove the foundation of the garage. The building would be slightly closer to the lake due to the overhang, and

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there will be a 2 bedroom house with a septic for 3 bedrooms.

Ms. Hackett read letters from abutters.

Mr. Onion asked if the septic had been approved.

Mr. Ellis said yes.

Mr. Teunessen said the elevation of the roof will be higher than the present one.

Mr. Abbott said there will be enhanced rain capture on the patio.

Mr. Teunessen said there was no patio on the plan.

Mr. Ellis said they will put in stone.

Mr. Abbott was concerned about accelerating water run-off into the lake, but the plan presented improves that situation.

Mr. Ellis said in the Shoreland plan it shows a patio of permeable material with an under-layer.

Ms. Hackett said the deck steps will be to the side not toward the lake.

Mr. Teunessen said the building height is 35' on the lowest side, and the street side is 28' high. Stairs are in the footprint presented in the application.

Ms. Hackett asked the applicants if the board accepts the deck would they accept a condition that the deck never be enclosed or used as living space.

The Whites said they had no problem with the condition.

Mr. Ellis stated that the deck would be 5.8' closer to the water than the present house.

Mr. Abbott moved to close Public Hearing Case #2016-00009 James & Wanda White, owners. Seconded by Mr. Onion.
Motion passed unanimously.

Public Hearing Case # 2016-00010 Nanette Hamley, owner: requests a variance from Zoning Ordinance Article IV Table 2 to place a shed in the wetland & lake setback. Property is 4.7 acres located at 399 Meadow Pond Road, Map/Lot# 420/74, in the Rural zone.

Ms. Hackett said she went out to look at the 4.7 acres because she wondered why the building had to be so close to the water. She realized the land is a sliver.

Ms. Hamley stated that there is more road frontage than acreage. The house was built inside the foundation of an old mill. The shed can't be put anywhere else except in the middle of the yard. There will be 2 driveways. The longer one will go to the shed. There is a mill living quarters foundation on the property, which they want to keep. There is granite ledge where they will put the shed. She showed a google map where you can't even see her house.

Mr. Onion asked if the building would sit on blocks.

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Ms. Hamley said depending on the building inspector's requirements. Their present sheds are full of antiques from their dealership. They need a place for things not being used. The new shed is just for storage, no electric or water.

Mr. Onion asked if the applicants were ok with the stipulation that the building would have no living space.

Ms. Hamley said that was all right.

Mr. Onion moved to close Public Hearing Case #2016-00010 Nanette Hamley, owner.

Seconded by Mr. Teunessen.

Motion passed unanimously.

Public Hearing Case # 2016-00011 Andrew McSheffrey, applicant, Sullivan

Trust, owner: requests a variance from ZBA decision of September 17, 2015, case # 2015-00010, to enclose the covered pavilion. Property is 174.19 acres located on Middle Route, Map/Lot# 405/21/0, in the Conservation zone.

Mr. McSheffrey stated that the previous approval was for a pavilion. The property owner now wants to enclose the pavilion, and lock it so it isn't used by unauthorized persons.

Ms. Hackett said the building was built for shooting so how could shooting happen if the building was enclosed.

Mr. McSheffrey said they would put overhead doors and sliding doors which can be open.

Mr. Abbott asked if the shooting side would have the overhead doors and the back have the sliders.

Mr. McSheffrey said yes and the sliders would be wood. The side walls were already added to trap sound.

Mr. Onion asked if it was ok what the applicant had already built, and stated he wants to add doors. The work hasn't changed the use or footprint, and now they want to enclose with doors for security.

Mr. Abbott stated the building looks enclosed because the sides were added. He asked if a written request had been received from a neighbor to control the noise.

Mr. McSheffrey said there was no written request. He did not know about noise.

Mr. Onion moved to close Public Hearing Case #2016-00011 Andrew McSheffrey, applicant, Sullivan Trust, owner.

Seconded by Ms. Fournier.

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Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2016-00009 James & Wanda White, owners

MOTION:

Mr. Teunessen moved to grant variance in Case # 2016-00009 James & Wanda White, owners from Zoning Ordinance Article IV Table 2 to replace a non-conforming house & separate garage with a house, deck, & connected garage that covers more space, but are located in the same general area, according to plan submitted with application. Property is .32 acres located at 25 NH Route 106, Map/Lot# 134/5, in the Rural zone.

- a. The granting of the variance would not be contrary to the public interest because a letter of support was read into the application, further, no evidence was presented that it would be contrary to the public interest, and a new septic system will be installed & drainage improved;**
- b. The spirit of the Ordinance is observed because the new construction will cover a similar footprint in replacing existing buildings;**
- c. By the granting of the variance substantial justice will be done because the applicant will be able to live in updated structures;**
- d. The Board saw no evidence presented that granting the variance would create diminution of value to the surrounding properties, rather the proposal will enhance property values;**
- e. Literal enforcement of the ordinance could result in unnecessary hardship to the property owner seeking it owing to special conditions of the property, which are that structures already exist on this lot that was created before the zoning ordinance was created, 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****

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the Zoning Ordinance seeks to prevent further crowding on the lake, not to keep owners from improving residences that already exist, and the new structure will be within close approximation of the original footprint,

AND

- ii. the proposed use is a reasonable one because it is the same as the existing use, and in keeping with the neighborhood.

CONDITIONS:

1. The project must receive approval from DES Shoreland.
2. The project must be granted an “approved for operation” new septic system.
3. The new buildings may be no taller than the present buildings.
4. There may be no additional buildings or additions on the property without submitting a new application to the ZBA.
5. The attached deck may not be developed into living space.
6. Measures to control runoff, as described in the testimony, will be implemented.

Seconded by Ms. Fournier.

Ms. Hackett stated that the variance covers all setbacks that the project may not meet. Mr. Onion said that if someone writes a letter in support of a project, that does not mean the public interest is being supported.

Motion passed unanimously.

Case #2016-00010 Nanette Hamley, owner

Mr. Onion stated that as long as the Conservation Commission has no problem with the project he was ok with it.

MOTION:

Mr. Abbott moved to grant a variance in Case # 2016-00010 Nanette Hamley, owner, requesting a variance from Zoning Ordinance Article IV Table 2 to place a shed 42’ from wetland/water according to design submitted with application. Property is 4.7 acres located at 399 Meadow Pond Road, Map/Lot# 420/74, in the Rural zone.

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- a. The granting of the variance would not be contrary to the public interest because the board saw no impact to that effect and the request is consistent with the historic use of the property, and there has been no stated objection, and no evidence presented that it would be contrary;
- b. The spirit of the Ordinance is observed because the interesting shape of the property presented few options for this use, which is a reasonable use;
- c. By the granting of the variance substantial justice will be done because the owners will be able to continue with their avocation fully on their property;
- 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, namely the lot is long and narrow, sandwiched between road and water that 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 no explicit adverse impact to the improved use**AND**
 - ii. the proposed use is a reasonable one because more storage is needed for the applicants to pursue their avocation.

CONDITIONS:

- 1. The new shed shall be used for storage only.
- 2. The new shed shall have no plumbing or heating.

Seconded by Mr. Teunessen.

Motion passed unanimously.

Case # 2016-00011 Andrew McSheffrey, applicant, Sullivan Trust, owner

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Ms. Hackett stated that the application was requesting an amendment to an earlier ZBA decision.

Mr. Teunessen asked why the application was presented when the property is the required size.

Mr. Onion stated that there is no residence on the lot so an accessory structure needs a variance.

MOTION:

Ms. Fournier moved to grant a variance in Case # 2016-00011 Andrew McSheffrey, applicant, Sullivan Trust, owner, requesting a variance from ZBA decision of September 17, 2015, case # 2015-00010, to install doors to enclose the covered pavilion. Property is 174.19 acres located on Middle Route, Map/Lot# 405/21/0, in the Conservation zone.

- a. The granting of the variance would not be contrary to the public interest because no evidence was presented that it would be contrary, and there will be no change in size or use, and noise abatement is in the public interest;**
- b. The spirit of the Ordinance is observed because the owner wishes to continue to use the land in the same way, and that use is not adverse to the ordinance;**
- c. By the granting of the variance substantial justice will be done because the owner will be able to secure his property and provide protection from weather, theft, & vandalism;**
- 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 that it is a large parcel in the middle of a residential area where many individuals routinely trespass, that distinguish 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 the individual is seeking to safely secure his property,****

AND

- ii. the proposed use is a reasonable one because the use is not changing.**

CONDITIONS:

- 1. All conditions of case #2015-00010 continue to be required.**

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2. **Electricity is allowed for door openers only.**
3. **No heating or plumbing may be installed.**

Second Mr. Teunessen

Ms. Hackett said that it would be expensive to bring electricity in for the poles.
Mr. Abbott read aloud the conditions from case # 2015-00010.
Mr. Onion asked if the conditions would keep the building from being used as a residence.

Motion passed unanimously.

APPROVAL OF MINUTES

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

OTHER BUSINESS

The Planning Board agenda was reviewed.
The OEP conference was noted.
The question was asked about whether the BOS look into fines for building without a permit.

ADJOURNMENT: Motion was made by Mr. Teunessen and seconded by Mr. Onion to adjourn. Vote passed unanimously. Meeting adjourned at 9:23 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator