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. Three positive votes would be needed for any decision to pass. She noted that there are positions open for alternates on the ZBA. Persons should notify the Selectmen of their willingness to serve.

OLD BUSINESS

Continued Public Hearing Case # 2016-00015 Jeffrey Medeiros, owner: requests a variance from Zoning Ordinance Article IV Table 2 to build a porch on the roadside of his house which is already in the road setback. Property is 86 acres located at 4 Governors Road, Map/Lot# 414/51, in the Rural zone.

Mr. Medeiros sent an email to the office stating that the plans were not ready; he asked for a further continuance.

MOTION:
Mr. Abbott moved to continue public hearing case #2016-00015 until Feb. 16, 2017, at 7PM. Seconded by Mr. Teunessen
Motion passed unanimously

NEW BUSINESS

Public Hearing Case #2017-00001 Andrew Hook, owner: requests a variance from ZBA decision in ZBA case # 2015-00011 to put electricity in shed. Property is .28 acres located on Malecite Lane, Map/Lot# 132/16, in the Rural zone.

Mr. Hook asked for electricity and heat to be included so he could use the shed for recreation year round.
Ms. Hackett stated that his house is across the street from the new shed, and he has
another lot with a gazebo and 2 sheds. When Mr. Hook asked in 2015 to put a shed on this lot it was because his house was on a small lot. The ZBA granted that approval with the condition the shed could not have heat, electricity, or plumbing. The approval was recorded with that condition. The applicant now wants something in addition.

Mr. Teunessen moved to close Public Hearing Case #2017-00001 Andrew Hook, owner. Seconded by Ms. Fournier. Motion passed unanimously.

Public Hearing Case #2017-00002 Andrew St. Godard, owner: request a variance from Zoning Ordinance Article III Section B to build on the footprint of a previous owner’s fire ruined foundation that is 14’ from the property line on a non-conforming lot. Property is 1.9 acres located at 1020 NH Rte. 140, Map/Lot# 414-66, in the Rural zone.

Mr. St. Godard stated that the previous owner had a fire in the house 3 years ago and didn’t get an extension to rebuild a fire ruined building. He read from his application the five reasons his variance should be granted. He showed a picture of the building that he desired to build. He plans to remove the shed, which appears to not be on his property.

Mr. Abbott stated that one map showed there was a discrepancy in a property line, and it showed what the adjustment should be.

Mr. Onion asked how far the foundation would be from the new property line. Mr. St. Godard said 14’, but feels that is not important because he is asking for a variance from Article III-B. Also the location of the stream doesn’t leave much room for different placement of the septic and house on the lot.

Mr. Onion asked if allowing the applicant to build on an old foundation might expose the town to a possible legal action.

Mr. St. Godard said plans for a new building foundation would be above the old foundation, and will have radiant heat. Due to new energy requirements a new slab will be needed.

Ms. Hackett asked about the new slab dimensions.

Mr. St. Godard stated the slab base will be the same as the existing foundation wall.

Chris Keith stated that the shed was on his property, and the foundation is close to his property line. He and his wife support the applicant building on the old foundation, and Mr. Bailey will do an official survey. He thought the lot line was about 8’ from the foundation.

Mr. St. Godard stated that Mr. Bailey said the survey would be done by the end of the week. The shed in question will be removed.
Mr. Teunessen moved to close Public Hearing Case #2017-00002 Andrew St. Godard, owner. Seconded by Mr. Abbott. Motion passed unanimously.

Public Hearing Case #2017-00003 Matthew Moore, applicant, Roberta Avery, owner; request a variance from Zoning Ordinance Article IV Table 2 to build 12’ from the front lot line and 50’ from the lake. Property is .34 acres located at 200 Hemlock Dr., Map/Lot# 119-127, in the Residential Lake zone.

Ms. Hackett read Ms. Avery’s letter giving Mr. Moore the power to represent her. Mr. Moore showed an enlargement of the map in the board packet. He stated they were looking for a variance, requesting to put a house 12’ from the road lot line, and 50’ from the lake. He showed on the map that the house couldn’t be 35’ from the road and 75’ from lake. There wasn’t that much room on the lot. He read from his application the five reasons his application should be granted. He wants to make the house conform to as many of the requirements as possible. The deed required a 20’ x 24’ building. There will be an additional one foot overhang around the house. The existing building is less than 50’ from the lake and 20’ from the road, so the new house would be less non-conforming. If the proposed location of the new house is moved it will not meet NH DES requirement of 50’ from the lake or the septic distances. The design does meet the NH DES impervious surface proportions requirement. He noted the list of houses on Hemlock Drive, showing their distances from the road and from the lake. The list showed that many existing houses do not meet road setbacks. Only one house meets the 75’ lake setback. The applicant’s lot is on an existing lot of record. The State would allow a deck to be closer to the lake, but the town will not, so they are proposing a deck mostly not on the lake side. A car can be parked on their property off road. There would be a walkout basement giving access to the lake. There is a bob house/shed also on the property which is in the setbacks, but not on a foundation.

Ms. Hackett stated there would be no driveway, but the deck will be in the 75’ setback. She asked if the applicant would have issue if the Board approved on condition that the footprint could not extend for a deck. Mr. Avery said he understood he couldn’t have a lakeside deck, but wanted a deck. Ms. Hackett asked how many cars could park, because cars need to be off the road. Mr. Moore stated that if it was a concern of the Board, the parking space can be extended & made for 2 vehicles. He said they would be using crushed stone so water doesn’t run off as shown on the Shoreland application.

Ms. Hackett stated egress would be from the house down to the parking area, a sliding
door from the basement, and a deck door.
Mr. Teunessen stated that the town maintains that part of Hemlock Drive.
Mr. Abbott said there may be a 40’ area that drains from the road into the property.
Mr. Moore explained that the water drains in another direction. The septic will be 10’ from the property line. The town rules for septic distance are the same as the state.
Mr. Dejana, an abutter, asked if the septic & grading would box him in.
Mr. Moore said the enviro septic can be put on a slope. The slope is 3:1, and that area can be driven on carefully. There would be no disturbance on the property on Mr. Dejana’s side.
Mr. Dejana stated that when he has company and people park on the street, the cops come right away.
Mr. Moore said they couldn’t make a driveway on the side on house because Shoreland requires a certain amount of pervious surface. The deck will stay out of the state 50’ setback by being placed on the south west corner. It will be 16’ long across the lake side, and 10’ out from the north side of the building.

Mr. Teunessen moved to close Public Hearing Case #2017-00003 Matthew Moore, applicant, Roberta Avery, owner. Seconded by Mr. Abbott. Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2017-00001 Andrew Hook, owner

Ms. Hackett stated that the applicant was looking to put electricity in the shed across the street from his house.

MOTION:
Mr. Teunessen moved to grant a variance in Case #2017-00001 Andrew Hook, owner requesting a variance from ZBA decision in ZBA case # 2015-00011 to put electricity and heat in shed. Property is .28 acres located on Malecite Lane, Map/Lot# 132/16, 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 additional amenities can be incorporated into the structure to make it living space;
b. The spirit of the Ordinance is observed because the storage space can be easier used by lighting it;

c. By the granting of the variance substantial justice will be done because the owner will be able to make better use of his 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, that the shed is located on a lot across the street from the owner’s home 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 there is no apparent negative impact to surrounding properties,

    AND

    ii. the proposed use is a reasonable one because granting of the variance will allow better use of the shed.

CONDITIONS:
1. The building will continue to be used as storage space, but may also be used for recreational purposes.
2. The other conditions of ZBA decision #2015-00011 will continue to apply.

Seconded by Mr. Abbott.

Ms. Fournier stated that on the application electric and heat were asked for, but the public hearing only stated electric.
Mr. Abbott said that his understanding going all the way through the hearing was to add electricity and heat.
The Board’s consensus was the motion would change to the form above which allows electric and heat because it was requested in the application.

Motion passed unanimously.
Case #2017-00002 Andrew St. Godard, owner

Ms. Hackett stated the applicant was looking to place a building on a foundation where a house had burned 3 years ago.

MOTION:

Mr. Abbott moved to grant variance Case #2017-00002 Andrew St. Godard, owner: requesting a variance from Zoning Ordinance Article III Section B to build on the footprint of a previous owner’s fire ruined foundation that is 14’ from the property line on a non-conforming lot. Property is 1.9 acres located at 1020 NH Rte. 140, Map/Lot# 414-66, in the Rural zone.

a. The granting of the variance would not be contrary to the public interest because the property has fallen into disarray, it is overrun with graffiti and debris, the rebuilding of a maintained home will provide a pleasing use in keeping with the town’s rural character;

b. The spirit of the Ordinance is observed because the ordinance can be reasonably interrupted to allow the rebuilding of a home on the footprint of a fire ruined building, and in this case it would have been except for the lapse of responsiveness by the prior owner;

c. By the granting of the variance substantial justice will be done because a residential property will be restored to a condition that was approved and in use in the town, and acceptable to all parties, and may be considered a good use of the property;

d. The Board saw no evidence presented that granting the variance would create diminution of value to the surrounding properties and in fact it is the consensus of the Board in agreement with the applicant that it will most likely restore 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 that the property line boundary is in doubt, and in fact the setbacks from the actual boundary may encroach upon the existing foundation of the prior house 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, although delayed, the inevitable outcome of adhering to the ordinance is the same

AND

ii. the proposed use is a reasonable one because the lot is zoned for single family dwellings and this lot had been built upon.

CONDITIONS:
1. The building inspector must certify that the foundation meets present code or the foundation will have to be rebuilt on the same footprint of the existing foundation.
2. All rules and regulations for building a new single family dwelling must be met.
3. A new survey commissioned by the applicant must be complete, and must conform to the testimony of the applicant in the public hearing, and a copy submitted to the town.

Seconded by Ms. Fournier.

Motion passed unanimously.

Case #2017-00003 Matthew Moore, applicant, Roberta Avery, owner

MOTION:
Mr. Teunessen moved to grant variance in Case #2017-00003 Matthew Moore, applicant, Roberta Avery, owner requesting a variance from Zoning Ordinance Article IV Table 2 to build 12’ from the front lot line and 50’ from the lake. Property is .34 acres located at 200 Hemlock Dr., Map/Lot# 119-127, in the Residential Lake zone.

a. The granting of the variance would not be contrary to the public interest because the Board found no evidence presented that it would be contrary & there has been no stated objection, and a state approved septic system will be installed;

b. The spirit of the Ordinance is observed because an existing campsite will be replaced by a single family residence with an approved septic system;

c. By the granting of the variance substantial justice will be done because the
owner will put the property to better use in an environmentally sound way;

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 this area of Gilmanton was subdivided before zoning and before septic systems were required and this distinguishes it from newly formed area lots,

   i. a fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to this property because the environment of the lake will be protected by a septic system on this property,

   AND

   ii. the proposed use is a reasonable one because the area is zoned for residential homes.

CONDITIONS:
1. All currently existing buildings will be removed.
2. The height of the house will not exceed 35’.
3. The deck cannot be used for living space.

Seconded by Ms. Fournier.

Mr. Teunessen stated that the trend at Sawyer Lake is that camps are being converted to residences.
Mr. Abbott said a home vs. a camp may not have less impact on the environment, but it is what is happening, and with a septic system and drainage the plan submitted is a good one.

Motion passed unanimously.

APPROVAL OF MINUTES – November 17, 2016, meeting

MOTION: Mr. Abbott moved to accept the minutes of the November 17, 2016, meeting as amended by Mr. Onion. Seconded by Ms. Fournier.
Motion passed unanimously.

OTHER BUSINESS
Ms. Hackett asked the 2 members of the planning board that were in attendance if they had anything to discuss with the ZBA.

Justin Caldon wanted to know if the condition made by the ZBA that the building inspector would determine if the foundation on Route 140 was usable, was opening up the town to liability, since the inspector isn’t an engineer.
Mr. Abbott clarified that the foundation had to meet the current building code and any new foundation would have to be on the footprint of the old one.

Wayne Ogni stated that he remembered a joint meeting of the Planning Board & ZBA for the Corner Slice where the ZBA decision stated the Slice could not sell alcohol. He wanted to make sure the Planning Board was not stepping on toes by telling the Corner Slice that it was ok to sell alcohol.
Ms. Hackett said that at the Planning Board meeting it was stated that alcohol was not to be consumed at the Corner Slice.
Mr. Teunessen stated that selling gas is a mixed use, and needs state approval.
Mr. Ogni stated that the state never decertified the gas tanks. The Planning Board approved the Corner Slice to sell alcohol and gas, requiring no site plan.
Mr. Abbott clarified that people can go in and buy alcohol, but not drink on the premises.

Ms. Hackett stated that she was concerned about the planning board creating an ADU ordinance without talking to ZBA, and allowing 2 dwellings on one property lot.

The Administrator clarified for the record that it was the consensus of the ZBA that in the context of the meeting of March 10, 2016, case # 2016-00006, condition #10 for Henry Vigeant, “A reapplication must be made to the ZBA, for amendment to this approval, before any alcoholic beverages can be sold”, the ZBA meant alcoholic beverages that were to be sold & consumed on the premises.

ADJOURNMENT: Motion was made by Mr. Teunessen and seconded by Ms. Fournier to adjourn. Vote passed unanimously. Meeting adjourned 10:10 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator