

Town of Gilmanton
Zoning Board of Adjustment
Academy Building
Thursday September 20, 2007
Meeting Minutes

Chairman Elizabeth Hackett called the meeting to order at 7:00 P.M. Members in attendance were: Carolyn Baldwin, Paul Levesque, Israel Willard, Ron Labelle, and Alternates Sandra Littlefield and Wayne Gray. Also present was Recording Clerk Wendy Keane.

Chairperson Hackett gave an overview of the Zoning Board of Adjustment's hearing procedures to the members of the public in attendance and introduced the board.

Public Hearing Case #28-2007 Richard deSeve & Susan Hale-deSeve:- Request for a Special Exception from Article VII B.2 to construct an elevated walkway which will be 13'X8' and 4'X8' on a lot which does not meet the minimum required 2 acres or 200' of frontage on a class V or better road. Property is located at 80 Lakeshore Drive in the Rural District, Map 133 Lot 88.

Mr. de Seve explained to the Board that due to ambulation limitations, he and his wife are requesting a Special Exception to build a gradually sloping ramp to access to their home. He stated that the present stairs and walkway are in disrepair and difficult to navigate. The proposed walkway would decrease the present non-conformity and reduce the encroachment upon the setbacks.

The Board discussed the setbacks and construction with Mr. de Seve.

MOTION: Carolyn Baldwin moved to close the public hearing. Seconded by Israel Willard. Motion carried 5-0.

Public Hearing Case # 29-2007 Gerrior & Weber Trustees applicant: Request for a Variance from Article VII.B.2, to construct add a 8'X14.5' addition and an 8'X14' deck to an existing single family dwelling on a lot which does not meet the minimum required 2 acres and lacks frontage on a class V or better road. Property is located at 65 Snowshoe Hill Rd, a discontinued road in the Rural District, Map 134 Lot 13.

Joan Webber spoke on behalf of the proposed plan. She stated that she would like to construct a deck and an addition to the property. She explained that when she submitted the septic design it showed the addition and deck and since the septic design was approved she began construction. She was unaware of the process and simply thought the approval for septic meant she could begin the project. It was not until the Code Enforcement Office placed a cease and desist order for construction that she became aware of her non-compliance with the Zoning Ordinance.

The Board discussed the submitted plans with Ms. Webber. Ron Labelle inquired what would be done with the bathroom that is intended to be removed. Ms. Webber stated that

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since the present bathroom is off of the kitchen it would become a pantry and a new bathroom would be relocated elsewhere in the house.

The Board discussed the septic system and capacity with Ms. Webber. Mr. Brue, the septic contractor stated that the septic has been approved by the state and that it would be installed per state guidelines and recommendations as the approval dictates.

MOTION: Carolyn Baldwin moved to close the public hearing, Seconded by Israel Willard. Motion carried 5-0.

Public Hearing Case # 30-2007 Roger Boucher: Request for a Variance from Article VII.B.2 to construct a 40'X12' deck on an existing dwelling and a 32'X54' pole barn on a lot which does not meet the minimum required 200' of frontage on a Class V or better road. Property is located at 944 Middle Rt. in the Rural District, Map 405 Lot 27.

Ron Boucher presented his proposed plans to the Board. He explained that he would like to build a deck on the front of the house for recreation purposes. He further explained that he would like to build a 32'X54' pole barn which will be placed partially behind the house. The pole barn would be utilized to store his machinery, chickens and wood.

Stan and Alice Bean, abutters to the property spoke on behalf of their support for the project. Mr. Bean further stated that Mr. Boucher has 146 acres and it is only because of his lack of frontage that he is before the Board.

Ed Duby, an abutter, stated that he is not opposed to the barn, however because his property looks up to Mr. Boucher's property and he can clearly see Mr. Boucher's home, that he would like to know what color the barn is intended to be as well as the color of the roof. He further stated that when he looks up the hill he can see Mr. Boucher's snow plow in the winter and would like to be sure that the barn will not be intrusive to the view of the granite hills behind Mr. Boucher's dwelling.

Ron Labelle inquired if the Board had the ability to make a condition in a ruling to the color of the roof.

Suzanne Duby inquired what the pole barn was intended to be used for as it seems it will be very large based on the plans. Ron Labelle clarified that one end of the barn would house chickens and the rest of the barn would be for wood, equipment and vehicle storage per the testimony from Mr. Boucher.

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Paul Haunfelner, an abutter, stated that his house looks directly up the hill to the Boucher's. He stated that he has no problem with the Boucher's constructing a deck and a pole barn.

MOTION: Israel Willard moved to close the public session. Seconded by Ron Labelle. Motion carried 5-0.

Public Hearing Case #31-2007 Barry & Brian Howland & Howland Trust: Request for a Special Exception from Article VII.B.2 to demolish an existing dwelling and replace it with a 28'X40' single family dwelling with a 6'X40' porch on three sides on a lot which does not conform due to the existence of two single family dwellings on the single lot. Property is located at 1035 Province Road in the Rural District, Map 135 Lot 2.

Brian Howland stated that he would like to demolish the existing structure, which is small and close to the road and construct a new dwelling further back on the property. Barry Howland stated that they have the acreage to be able to place the house elsewhere on the property and that where the cottage is now is a hazard.

Carolyn Baldwin inquired if the state would allow a second driveway on the property. Brian Howland stated that there is already a second driveway and they would simply continue it up to the new dwelling if approved. Carolyn Baldwin inquired why the Howland's did not consider subdividing. Barry Howland stated that the property is in a trust and he would like to keep the property as a whole piece instead of subdividing. Stephanie Howland stated that there is already two houses on the property and they do not want to subdivide. She further stated that when the town did their remapping they lost a little over 3 acres and would not want to lose more.

The Board and Brian Howland discussed the proposed dwelling and dimensions, decking and other proposals. The Board told Mr. Howland that if the Special Exception were to be approved, it would be subject to a state approved septic design.

MOTION: Paul Levesque moved to close the public hearing. Seconded by Ron Labelle. Motion carried 5-0.

Public Hearing Case #32-2007 Dean & Kathleen Erickson, Erickson Trust: Request for a Variance from Article VII.B.2 to construct a 40'X8'' screened porch, 35'X8' addition and a 20'X16' addition to an existing dwelling on a lot which does not meet the minimum required 2 acres or 200' of frontage on a class V or better road. Property is located at 455 Crystal Lake Road in the Rural District. Map 107 Lot 6.

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Richard Maher spoke on the behalf of the Erickson's proposal. Dean and Kathleen Erickson were present for the hearing. Mr. Maher stated that the Erickson's have a state approved septic design for the site. Mr. Maher explained that the existing dwelling is in ill repair due to the age of the structure and it would be easier to demolish the old structure and rebuild than to try and repair. He stated that the Erickson's would also like to place an addition onto the home because of their growing family and space needs. Other family members primarily surround the Erickson's property. The one lot line which would be most impacted by encroachment would be Mr. Maher's who does not have any problems with it. Mr. Maher would also be the contractor of the project.

Chairman Hackett read 6 letters into record in regard to the support of the project (see attached). Wendy Keane made the Board aware that there was one abutter who called and was not in favor of the project, however the abutter did not send a letter and because she lives out of state could not attend the hearing.

The Board continued to discuss the plans as proposed with Mr. Maher and the Erickson's.

MOTION: Carolyn Baldwin moved to close the public session. Seconded by Paul Levesque. Motion carried 5-0.

Public Hearing Case # 33-2007 Thomas & Patricia Lizotte: Request for a Variance from Article VII.C.3 to construct a 32'X32' single family dwelling with a 10'X20' deck on a lot which does not meet the minimum required 2 acres and lacks frontage on a class V or better road. Property is located on Cedar Drive, a private road in the Rural District. Map 130 Lot 16.

Mr. Lizotte spoke to the Board in regard to his application. He stated that he and his wife were previously approved to build a structure on the property on 1989. At that time, they were not able financially to construct the dwelling. Since that time the Ordinance has changed. Mr. Lizotte stated that his site is approximately 200 from an existing house and there are other houses in the area. He is requesting a variance to be able to construct a single-family dwelling. A state approved septic design is in place and there is electricity available to the site from PSNH. Chairman Hackett stated that in 1989 the Board granted an Appeal from Administrative Decision and allowed a 32'X32' single family dwelling to be built on the lot and that was to be a two bedroom home. She further stated that in 2005 there was a variance sought by Mr. Fereshitian, who was interested in purchasing the lot. The variance was denied because of the roads conditions and that emergency vehicles could not access the lot, there was no unnecessary hardship because the person had not yet purchased the lot, the road is not a class V or better road and the road is located on the interior of an old subdivision and the Board should not encourage the upgrade of or development on an inadequate road. An appeal was made on the August 2005 decision, however that appeal was denied in October of 2005. Chairman Hackett said that it is her understanding that they are looking to construct the same type of home with three bedrooms and an additional deck.

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Carolyn Baldwin stated that she believes there **may** be a jurisdictional issue based on *Fisher v. Dover 120 NH 187 (1980). When an application is submitted, the files should be reviewed to determine if a previous application was denied for the same situation. If so, the board should determine if circumstances have changed sufficiently to warrant acceptance of the reapplication. She further stated that the same issues exist in reference to the property, that it is similar structure plans and that the roads are in the same condition as when the application was denied in 2005. Carolyn Baldwin stated she would like to clarify that the town did not create the subdivision in question; it was created before the town had subdivision and zoning regulations.

Tracey Bisson, friend of the applicants, stated that in 1989 the application for the same thing was approved. He wants to understand why they were approved at that time but have subsequently been denied. He stated that in 2005, the Lizottes realized they could not afford the property and were trying to sell it. It was a separate party who was interested in purchasing the property & it was that person who applied for the Variance at that time and it had nothing to do with the Lizottes and what they wanted to do with the land. He explained that the Lizottes intention has been to put a house on the property for themselves however finances prevented that plan.

Chairman Hackett explained that the decision of the Board is based strictly on the property and has nothing to do with the owners of the property or potential buyers of the property. In 1989, the Board at that time ruled that Mr. Lizotte at that time could build, there is a year timeframe in which the project is to be started or an extension would need to be granted. The granting of a Variance does not continue indefinitely. Presently there are different Zoning Ordinances that would need to be complied to.

Mr. Bisson inquired if Mr. Lizotte were to buy a .8 acre parcel abutting his which would give him 2+ acres, would he be able to build. Chairman Hackett stated that the Zoning regulations per Article IV Table II states that a property in the Rural District must have 2 acres and 200' of frontage on a class V road in order to be considered a buildable lot by the town. Should Mr. Lizotte purchase the neighboring lot and acquire the acreage, he is still lacking the 200' of frontage on a Class V or better roadway, therefore he would still need to apply for a Variance from the Zoning Board. If the Variance were to be approved, he would still need to appeal to the Selectmen in order to bring the roads to a standard acceptable by the town in order to build.

Mr Lizotte stated that there is a dwelling very close to his property on Butternut Lane. He further stated that his abutter to the rear of his property has stated he would be willing to grant him a right of way to access the property. He inquired if he were granted the right of way, would he then be able to build. The Board explained to him that he would still be

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lacking the 200' of frontage on a Class V or better road and that Butternut Lane is a private road.

Mr. Lizotte inquired what his options would be if this request for a Variance were to be denied. Chairman Hackett stated that the Lizottes could file for an appeal. He would have to provide information that was not present in the original hearing. If this were to be denied, then he would have the option to appeal to the court system.

MOTION: Carolyn Baldwin moved to close the public hearing. Seconded by Israel Willard. Motion carried 5-0.

Public Hearing Case # 34A-2007 Bethany Lavin : Request for a Variance from Article III.F.8 to erect two signs to display home occupation. Roadside sign to be 30sf total with ability to change lettering on lower portion. Sign on Structure to be 24sf and lighted. Property is located at 753 NH Route 140 in the Rural District. Map 414 Lot 5.

Bethany Lavin spoke to the Board in regards to her application. She stated that she would like to eliminate the sign on the structure as well as the changeable letter sign from the application. Mrs. Lavin further stated that the light as proposed on the front sign would only be on in the evening and would be off early in the night. Mrs. Lavin has the sign from a previous location and she would like to be able to use it.

The Board discussed the size of the sign with Mrs. Lavin. Paul Levesque stated that the sign proposed would be approximately 2.5 times the size as allowed by the ordinance. Discussion also focused on the placement of the sign and the State Right of Way. It was the general consensus of the Board that should the application be approved, then Mrs. Lavin would have to approach the State for Right of Way setback information because Route 140 is a State highway.

MOTION: Carolyn Baldwin moved to close the public hearing. Seconded by Israel Willard. Motion carried 5-0.

Public Hearing Case # 34B-2007 Ryan Benson applicant, Clement Vayda owner: Request for a Special Exception from Article IV Table 1 to establish a contractor's yard. Property is located at 1955 NH Route 140 in the Rural District. Map 416 Lot 20.

Ryan Benson spoke on behalf of his application. He stated that he owns a company in town and his property on Crystal Lake Road is not conducive for applying for a contractor's yard. Mr. & Mrs. Vayda have agreed to allow him to utilize a portion of their

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property to create a contractors yard for storage of his business equipment, such as a bobcat, trucks and landscaping supplies. He would also have on site a diesel tank which would be encased by cement on the bottom portion to prevent leakage.

Paul Levesque inquired if his site would be close to the culvert and brook. Mr. Benson stated that his entrance to the site and actual site are well away from that area. Wayne Gray inquired if the site ever had approval as a contractor's yard for Mr. Vayda. Mr. Benson stated that the site had not applied for or been granted any approval of that type in the past.

The Board discussed with Mr. Benson the site details. It was noted that the state had already approved a second driveway permit to the property (see file).

Doug Isleib, an abutter, stated that he does not have any objection to the proposal and feels it would be a positive move for Gilmanton to show their support of small business owners.

MOTION: Paul Levesque moved to close the public hearing. Seconded by Ron Labelle. Motion carried 5-0.

Public Hearing Case #35-2007 Mark Mathieu: Request for a Variance from Article VII.B.2 to construct a 12'X 24' deck on an existing dwelling, which does not meet side setbacks, on a lot which does not meet the minimum 1 acre requirement or 125' of frontage on a Class V or better road. Property is located at 344 Hemlock Drive in the Residential Lake District, Map 122 Lot 80.

Mr. Mathieu stated to the Board that he had previously applied for a larger deck to be placed on the dwelling and was denied. He has reapplied for a new request for a Variance with a smaller deck.

The Board discussed the new plans and the setbacks from the property lines.

9:00 –9:07 Recess

DELIBERATIVE SESSION:

Deliberative session: Case #28-2007 Richard deSeve & Susan Hale-deSeve:

The Board discussed the fact that the proposal would decrease the non-conformity of the lot and that there is a need for the ramp by the owners of the property.

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Carolyn Baldwin pointed out that per RSA 674:33:V: any zoning board of adjustment may grant a Variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises.

MOTION: Carolyn moved to grant the Special Exception as described in the application. With the findings that: The specific site is appropriate for such a use in that it would reduce the non-conformity by reducing the size of the access to the dwelling. The use as developed will not adversely affect the neighborhood. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. There will be no nuisance or hazard created. The proposed walkway does not increase the non-conformity of Article IV Table 2 of the ordinance.

Seconded by Ron Labelle. Motion carried 5-0.

Deliberative session: Case # 29-2007 Gerrior & Weber Trustees applicant:

The Board discussed the application for an addition and a deck. There was also discussion on the state approved septic design and it's construction.

MOTION: Ron Labelle moved to grant the Variance to construct a 8'X14.5' addition and an 8'X14' deck to an existing single family dwelling, with the findings that there will be no diminution of value in the surrounding properties. The granting of the variance would be of benefit to the public interest, as it will enhance the neighborhood. By the granting of the variance substantial justice will be done and the proposed variance would not be contrary to the spirit of the ordinance. The following conditions shall apply to this variance: that the proposed deck shall never be enclosed as living area and the stairs remain as they presently are.

Seconded by Carolyn Baldwin. Motion carried 5-0.

Deliberative case # 30-2007 Roger Boucher:

The Board discussed the application as proposed. There was discussion based upon the testimony of the abutters.

MOTION: Ron Labelle moved to grant the Variance to construct a deck and a pole barn with the findings that: there will be no diminution of value in the surrounding properties. The granting of the variance would be of benefit to the public interest. By the granting of the variance substantial justice will be done and the proposed variance would not be contrary to the

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spirit of the ordinance. The following conditions shall apply to this variance: that the deck shall never be enclosed as living area.

Seconded by Israel Willard. Motion carried 5-0.

Deliberative session: Case #31-2007 Barry & Brian Howland & Howland Trust:

The Board discussed the application as proposed.

There was discussion based on the hardship criteria and possibly subdivision of the property. It was noted that the property is already non-conforming in that it presently has two dwellings on 1 lot so by granting a special exception there would be no additional non-conformity created. It was also stated that the dwelling that is proposed to be demolished is in an unsafe location within a few feet of the roadway. By constructing a new dwelling further up on the property, the non-conformity in regard to the 35' setback from the roadway would be eliminated.

MOTION: Israel Willard moved to grant the Special Exception with the following findings: The specific site is appropriate for such a use in that it would reduce the non-conformity by increasing the current setbacks from the road. The use as developed will not adversely affect the neighborhood as it will remove a small cottage style dwelling to be replaced with a new construction single family dwelling. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. There will be no nuisance or hazard created. The proposed single-family dwelling does not increase the non-conformity of Article IV Table 2 of the ordinance. This Special Exception is granted with the following conditions: That a state approved septic design be in possession of the building department before commencement of the project. The present structure shall be demolished when the new structure is complete.

Seconded by Carolyn Baldwin. Motion carried 5-0.

Deliberative session: Case #32-2007 Dean & Kathleen Erickson, Erickson Trust:

The Board discussed the application as presented by Mr. Maher and the Erickson's. It was noted that the proposed structure would further encroach upon one of the lot lines, however the owner of that property, Mr. Maher, stated in the public session that it would not be a problem to him. Further discussion was held on the numerous letters in support of the project from the abutters. The septic design has been state approved and would reduce the present mound on the septic system.

MOTION: Ron Labelle moved to grant the Variance to reconstruct the existing dwelling and additionally to increase the living area as described in the plans submitted. This variance is granted with the following findings: There will be no diminution of value in the surrounding properties. The granting of the variance would be of benefit to the public interest, as it will enhance the neighborhood. That denial in the variance could result in unnecessary hardship to the owner seeking it because the present structure is not up to code. By the granting of the variance substantial justice will be done and the proposed variance would not be contrary to the spirit of the ordinance. The following conditions shall apply to this variance: that the proposed deck/porch shall never be enclosed as living area, the old structure shall be razed and the new structure built per the plans as submitted.

Seconded by Ron Labelle. Motion carried 5-0.

Deliberative session: Case # 33-2007 Thomas & Patricia Lizotte:

Discussion was held on the hardship issue of the applicant as it pertains to the ordinance. Wayne Gray inquired why if the Lizotte's purchased the property before the zoning ordinance was enacted, were they not experiencing a hardship based on the fact that at that time it was considered a buildable lot by the town. It was clarified that the zoning ordinance was adopted in 1970 and when the lot was purchased in 1988 by the Lizotte's, it would not have been considered a buildable lot by the town. Furthermore it was explained that the town of Gilmanton does not "grandfather" property. Lots are granted or denied building permits, variances and special exceptions based on the property types, where it is located and must adhere to the current zoning ordinance no matter when the property was purchased. Wayne Gray stated that he would like it to be clarified to the applicant that the variance, if denied, would not be because the Board could not hear the case or because it had been denied previously. Carolyn Baldwin stated that since the previous application was denied, the primary reasons of denial have not changed, specifically the road. Chairman Hackett stated that approvals or denials are based on the **land only** and not based on who owns the land at the time of application.

Discussion was held on the case as presented by Carolyn Baldwin during the public hearing: Fisher v. Dover 120 NH 187 (1980).

MOTION: Carolyn Baldwin moved to deny the variance being sought on case #33-2007 for construction of a single family dwelling on a lot that does not meet the required 2 acres and lacks frontage on a class V or better road. The findings are that the values of the surrounding properties are irrelevant and it would be adverse to the public interest due to the condition of the road and the inability for emergency vehicles, and at times possibly the owner, to access the property year round. Denial of the variance would not result in unnecessary hardship because the zoning restrictions applied are not unique to

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this property. The neighborhood where this property is located is made up primarily of lots that do not meet the zoning ordinance minimum requirements. It has been policy of the Zoning Board of Adjustment to not allow building on roads that basically do not exist, except on maps. The variance would be contrary to the spirit of the ordinance. Noted in this record, is that a similar application was denied to a potential buyer of the same lot in December of 2005 and the findings in that case were very similar in as far as the condition of the road not being adequate and the lot being an interior lot in a subdivision which has never been developed. At this point the road is inadequate for development.

Seconded by Paul Levesque. Motion carried 5-0.

Deliberative Session Case # 34A-2007 Bethany Lavin:

The Board discussed the application as proposed as well as the application eliminations made from the original request.

Israel Willard stated that there is a home salon on Allen's Mill Rd. who has the town approved sign and the lack of a bigger sign has not affected her business. Carolyn Baldwin stated there was also one on Route 140. Ron Labelle inquired if the sign is 9 square feet as allowed by ordinance, does it still require state approval of 25' from the middle of the road. Carolyn Baldwin stated that yes she would have to meet the requirement, however that becomes a state issue and not the town's issue.

Paul Levesque stated that the sign that Mrs. Lavin was speaking of would still be 2.5 times the size as allowed by the zoning ordinance.

MOTION: Paul Levesque moved to deny the request for a Variance as the signs proposed by the applicant are excessive in size and the Board recommends that the applicant stay within the 9 square feet as proscribed in the ordinance. With the findings that there would be diminution of abutting properties, granting the variance would be contrary to the public interest. Denial of the variance would not result in unnecessary hardship and by not granting the variance, substantial justice will be done. The proposed variance is contrary to the spirit of the ordinance.

Seconded by Carolyn Baldwin. Motion carried 5-0.

Deliberative session: Ryan Benson applicant, Clement Vayda owner:

The Board discussed the plan as submitted.

Chairman Hackett stated that her original concern was the skid tank, however once she heard how it was planned to be set and protected she was ok with it. Chairman Hackett further stated that there will be some heavy equipment, however no more than other sites which have been approved by the Board. It was reminded that Mr. Benson stated that he has three employees and they pick up supplies in the morning and head out for the day. Employees do not visit the site throughout the day so there would not be a traffic problem.

Chairman Hackett stated that should the Zoning Board grant the Special Exception for the applied use of the property, it would still need to go before the Planning Board for site approval.

MOTION: Ron Labelle moved to grant the special exception for the application as submitted. The specific site is an appropriate location for such a use being off of a major roadway and set back a considerable distance thereby shielding view of the contractor's yard from the public view. The use as developed will not adversely affect the neighborhood. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. There will be no nuisance or hazards created. Any structured or storage facilities will meet the required setbacks as proscribed in Article IV Table 2. There is a state approved driveway permit on file in the Selectmen's Office. With the following condition: Subject to site plan approval by the Planning Board. Also conditioned that that the driveway be installed and subject to state approval after completion.

Seconded by Carolyn Baldwin. Motion carried 5-0.

Deliberative session: Case #35-2007 Mark Mathieu:

The Board discussed the previous application as compared to the current application.

MOTION: Carolyn Baldwin moved to grant the Variance for the application as submitted with the findings that: There will be no diminution of value to the surrounding properties. The granting of the variance will not be adverse to the public interest. Denial of the variance would result in unnecessary hardship as it would interfere with the applicants reasonable use of his property. Granting the variance will do substantial justice and is not contrary to the spirit of the ordinance.

Seconded by Ron Labelle. Motion carried 5-0.

OTHER BUSINESS:

The Board and Wendy Keane, Land Use Clerk, discussed upcoming workshops.

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Wendy Keane also made the Board aware that the Selectmen would be interviewing Allen Gilbert for an alternate position on the Board. She provided them with a copy of the letter that he submitted to the Selectmen.

MOTION: Israel Willard moved to approve the July meeting minutes as amended. Seconded by Paul Levesque. Motion carried 5-0.

MOTION: Chairman Hackett moved to accept the August minutes as amended. Seconded by Ron Labelle. Motion carried 5-0.

MOTION: Paul Levesque moved to adjourn the meeting at 10:20 p.m. Seconded by Ron Labelle. Motion carried 5-0.

Meeting adjourned by Chairman Hackett at 10:20 p.m.

Respectfully submitted,

Wendy L. Keane
Recording Clerk

***Fisher v. Dover 120 NH 187 (1980):** *"When a material change of circumstances affecting the merits of the application has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment, the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan."*