

Town of Gilmanton
Zoning Board of Adjustment Minutes
Thursday, January 17, 2008
Gilmanton Academy

Chairman Elizabeth Hackett called the meeting to order at 7:00 P.M. Members in attendance were, Carolyn Baldwin, Israel Willard, Paul Levesque and Ron LaBelle, Alternates, Sandra Littlefield, Adam Gilbert 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.

CONTINUED Public Hearing Case # 42-2007 – Catherine Ruel: Request for a Variance from Article VII.B.2 to place a foundation under and construct a second floor to an existing dwelling on a lot which does not meet the minimum 1 acre (.28 acre) and lacks frontage on a class V or better road. Property is located at 16 Spruce Ave., a private road in the Residential Lake District, Map 119 Lot 33.

Mike Broughton, contractor for Catherine Ruel, stated that Bob Flanders, Building Inspector, visited the property and stated that the property is uninhabitable in it's present condition and is beyond reasonable repair to make it safe and livable. The contractor is planning to demolish the existing structure and build outside of the original footprint, however within all of the required setbacks, pending the decision of the ZBA. Mike Broughton reiterated that the property owner would also like to add a second story to the structure. Mr. Broughton explained that by constructing a new dwelling they would be able to place the structure within all of the required setbacks. The present structure encroaches upon side setbacks.

Israel Willard inquired if there was a State Approved Septic design on file. Wendy Keane stated that the septic design has been approved by Bob Flanders and forwarded onto DES for approval. The Town is presently awaiting the Approval for Construction.

Carolyn Baldwin noted that the well is within the required 75' protective well radius. The Board and the applicants discussed the need for a waiver for the well site. It was discussed that the Board could not grant the waiver for the well and that one would need to be issued from the Department of Environmental Services.

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

Public Hearing Case #43-2007 – Daniel O'Donnell: Request for a Variance from Article VII.B.2 to construct a 6'X12' addition to an existing dwelling located on a lot which does not meet the minimum 2 acres and lacks frontage on a class V or better road. Property is located at 32 Admirals Way, a private road in the Rural District, Map 109 Lot 18-1515.

Mr. O'Donnell was not present for the hearing.

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

Public Hearing Case # 44-2007 – Steven Chmielecki: Request for a Variance from Article VII. B. 2 to construct a 10'X38' deck and to convert an enclosed three season porch to living area on property which does not meet the minimum 1 acre (.44 acre) and lacks frontage on a class V or better road. Property is located at 62 Deer Dr., a private road in the Residential Lake District, Map 121 Lot 19.

Mike Capelluci spoke on behalf of the property owner who was not able to attend the hearing due to a prior commitment. Mr. Cappelluci stated that Mr. Chmielecki would like to winterize an already enclosed three season porch for additional living area and to also to construct a 10'X38'deck which will not encroach into the setbacks as proscribed in Article IV Table II of the Zoning Ordinance.

Israel Willard inquired if the septic was in compliance with the proposed change of the property. Wendy Keane stated that in the summer of 2007 the septic was evaluated and repaired and deemed sufficient for the proposed change.

Mr. Cappellucci also stated that Mr. Chmielecki has recently purchased a .44 acre adjoining lot which will increase his lot size. Mr. Capelluci presented copies of the Purchase and sales agreement.

The Board discussed the proposed changes to the property.

A letter from an abutter, Michael Shane Merritt, which is in favor of the proposed project, was read into the record.

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

Public Hearing Case # 45-2007 Gilmanton Preschool, Inc. applicant Gilmanton Community Church owner: Request for a Special Exception from Article IV Table 1, to establish a preschool. Property is located at 1807 NH Route 140 in the Village District, Map 115 Lot 3.

Norma Ruchti spoke on behalf of the Gilmanton Preschool, Inc. She stated that the Board had previously granted a Special Exception for a preschool to be established in the Corners Church, however due to the lack of sprinklers that site was not approved by the State. She is now requesting a Special Exception to establish the preschool in the Iron Works Church.

Israel Willard inquired if there were any other proposed changes other than the site. Mrs. Ruchti stated that the proposal is the same as what was approved in July of 2007 for the Corners Church site. The preschool, if approved, would be open from 8:30- 11:45

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Monday, Wednesday and Friday. There would be a limit of 24 children enrolled and the staff would remain the same as the original proposal with 1 director, 1 teacher and two volunteers at all times.

The Board and Mrs. Ruchti discussed the site and the pick up drop off plan. It was stated by Wayne Gray that there would be less traffic at the Iron Works Church because it is a one way in and out driveway.

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

Public Hearing Case #01-2008 Joseph & Christine Davis: Request for Variance per Article VII.B.4. and Article IV, Table 2, to replace a fire damaged single family dwelling with another on a lot that does not meet minimum 2-acre requirement (.44 acres), lacks frontage on a Class V or better road and does not meet setbacks. Property located at 9 Warbonnet Lane, a private road, in the Rural District; Map 132 Lot 17.

Mr. Davis was present for the hearing however Attorney Sullivan spoke on his behalf. Mr. Sullivan stated that Mr. Davis was granted a variance on July 20, 2006, to replace the fire damaged home on his property, however due to litigation and a conflict with the insurance company, he was not able to begin the construction within the one year time frame as granted by the variance. Mr. Sullivan further stated that at this time, they would be able to have the majority of the building products donated and they are hoping to be able to start the construction this spring. Attorney Sullivan also stated that the Insurance Company is/was reluctant to call the home a total loss and that is one of the reasons why this has been held up so long. Had the Insurance Company deemed the structure a total loss from the beginning, they would not have had to apply for another variance.

Israel Willard inquired if the plans as submitted this time were the same as those submitted and approved previously. Atty. Sullivan stated that the same plans that were previously approved would be used. Israel Willard inquired if there was a state approved septic system. Atty. Sullivan stated that there is.

Carolyn Baldwin noticed that the septic and structure would encroach upon wetlands. It was pointed out that the previous application was approved with the same septic and house placement.

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

DELIBERATIVE SESSION:

CONTINUED: Deliberative Session Case # 42-2007- The Board discussed the plans as proposed. Discussion focused on the well and septic and the need for a state waiver for

the lack of required distances between the two. It was also discussed that the new plans would place the structure within the required setbacks.

MOTION: Ron Labelle moved to approve the application for a Variance as submitted, to demolish the existing structure and replace it with a newly constructed building to be placed within the setbacks as required by Article IV Table 2 as depicted on the plans submitted and placed on record. The Variance is granted with the findings that there will be no diminution in value of the surrounding properties as the current property is uninhabitable and a new structure would enhance the site and neighborhood, granting the Variance would not be adverse to the public interest as it would remove a potential hazard from the neighborhood, denial of the Variance could result in unnecessary hardship to the applicant and granting of the Variance would do substantial justice by allowing the applicant reasonable use of the property and would not be contrary to the Spirit of the Ordinance.

Seconded by Israel Willard. Motion carried 5-0.

Deliberative Session Case #43-2007 – Daniel O’Donnell:

MOTION: Carolyn Baldwin moved to continue the case to the next regular scheduled meeting on February 21, 2008. Seconded by Ron Labelle. Motion carried 5-0.

Deliberative session: Case # 44-2007 – Steven Chmielecki:

The Board discussed the case and application as submitted.

MOTION: Ron Labelle moved to grant the Variance to construct a 10’X38’ deck and to enclose a three season porch to be utilized as living area. The Variance is granted per the plans as submitted and approved. The variance is granted with the findings that: There would be no diminution of value of surrounding properties as the deck will enhance the property, that granting the Variance would not be adverse to the public interest as it is in keeping with the styles of similar properties in the neighborhood, that denial of the Variance would result in unnecessary hardship to the applicant and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance.

Seconded by Adam Gilbert. Motion carried 5-0.

**Deliberative Session: Case # 45-2007 Gilmanton Preschool, Inc. applicant
Gilmanton Community Church owner:**

The Board discussed the application as submitted and the previous approval of the Special Exception at a different site. It was discussed that traffic mitigation would be easier to manage at the Iron Works Church site.

MOTION: Ron Labelle moved to grant the Special Exception to establish a pre-school at the site based on the following criteria:

- a. The specific site is an appropriate location for such a use.
- b. The use as developed will not adversely affect the neighborhood.
- c. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- d. There will be no nuisance or hazard created.
- e. There will not be any dimensional deviations from Article IV Table 2 as there will not be any structures erected.

Seconded by Carolyn Baldwin. Motion carried 5-0.

Deliberative session: Case #01-2008 Joseph & Christine Davis:

The Board discussed the application as submitted. There was much discussion on the septic and its proposed proximity to wetlands. It was reiterated that the septic plan has been approved by the state and that the plans being submitted with this application are the same as those that were submitted and approved on July 20, 2006.

There was much discussion on the applicant's failure to act on the previously granted variance. It was clarified that the previous variance was not acted upon due to the insurance companies reluctance to declare the home a total loss. Discussion continued on the proposed placement of the structure as well as the septic system.

MOTION: Sandra Littlefield moved to grant the Variance to demolish the existing structure and remove the property of hazardous materials and to construct a new single family dwelling per the plans as submitted to the ZBA of a 24'44' structure. The Variance is granted in regards to the setback of the septic system being 16' from the wetlands area. The structure shall meet all other setback requirements as required by Article IV Table 2. The variance is granted with the following findings: There would be no diminution of value of surrounding properties as the new structure will remove the dilapidated and burnt out hazardous structure that presently exists, that granting the Variance would not be adverse to the public interest as it will be in keeping with the styles of similar properties in the neighborhood and remove an eyesore and hazard, that denial of the Variance would result in unnecessary hardship to the applicant due to the extenuating circumstances why the applicant was not able to act upon the previously granted variance, and that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. The variance is granted with the following condition: That a mobile home not be placed on the property before, during or after construction of the dwelling.

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Seconded by Carolyn Baldwin. Motion carried 4-1, Israel Willard being the nay vote.

OTHER BUSINESS:

The Board discussed upcoming seminars.

Chairman Hackett moved to approve the minutes of the 11/15/07 meeting. Seconded by Paul Levesque. Motion carried 5-0.

MOTION: Ron Labelle moved to adjourn the meeting at 8:45 p.m. Seconded by Paul Levesque. Motion carried 5-0.

Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Wendy L. Keane
Recording Clerk