

Town of Gilmanton  
Zoning Board of Adjustment  
Thursday February 21, 2008  
Meeting Minutes

Vice-Chairman Carolyn Baldwin called the meeting to order at 7:05 P.M. Members in attendance were, Israel Willard, Paul Levesque and Ron Labelle. Also present was Recording Clerk Wendy Keane.

Vice Chairman Carolyn Baldwin gave an overview of the Zoning Board of Adjustment's hearing procedures to the members of the public in attendance and introduced the board. Carolyn Baldwin further explained to the applicants that there was not a full Board available for the hearings, however the members in attendance did constitute a forum. She explained that it is the decision of the applicants if they should choose to continue their hearing to the following month when a full Board will be present. All applicants at that time chose to continue with the hearings.

**Continued: Public Hearing Case #43-2007 – Daniel O'Donnell applicant:** 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.

Daniel O'Donnell spoke to the Board on behalf of the proposed addition to his existing dwelling. He explained that this is a second home and not in use year round. He stated that he would like to add a bathroom/laundry room for convenience for his family. Presently he has 1 bathroom in his home where the other units within the condominium association have 1.5 or 2 per unit.

Ron Labelle inquired how many other units utilize the same septic system. Dan O'Donnell stated that he shares a septic system with two or three other units.

Israel Willard inquired if there was a septic design on record for the property. Wendy Keane retrieved the records from the Planning Board file that shows that two to four units per system share the septic and that each system is approved for 3 bedrooms per unit.

Carolyn Baldwin read letters from abutters into the record (attached).

**Motion:** Israel Willard moved to close the public hearing. Seconded by Paul Levesque. Motion carried 4-0.

**Public Hearing Case # 02-2008 John Walenda applicant:** Request for a Variance per Article VII, C.3. Applicant requests to construct single family dwelling on property that does not meet the minimum one-acre requirement (.19 acre). Property located on Wood Drive in the Residential Lake District. Map 118 Lot 24.

Mr. Walenda was not present for the hearing, however his attorney Catherine Broderick from the Law Firm of Wescott, Millham and Dyer, LLP spoke on behalf of the application. Also on Mr. Walenda's behalf was Richard Walenda who by notarized letter was given Power of Attorney pertaining to the property. Ms. Broderick stated that the property previously had a dwelling upon it that was destroyed approximately 2 years ago. It was presented that the proposed structure would be constructed upon the existing footprint of the previous property. Ms. Broderick further stated that there is a State approved septic for the property from 2006.

Ms. Broderick spoke on behalf of the Boccia guidelines by which the Zoning Board of Adjustment makes their decisions and how the piece of property in question meets the criteria. The Boccia guidelines follow 5 steps of criteria necessary for the applicant to meet in order for the variance to be granted.

Dale Carr, an abutter, stated that his concern, as well as other abutters, is that when a well is dug it will further decrease the water pressure that has in recent years become a problem. He further stated that with the amount of summer residences being converted into year round properties, the water pressure has been steadily decreasing in the area. Mr. Carr stated that Bob Dow who is the Sawyer Lake District Commissioner would have been at the meeting but had a prior engagement.

Israel Willard inquired what type of well the property in question would have. Richard Walenda stated that it would be an artesian well.

Ron Labelle stated that it is his understanding that depending on how the well is dug it may not pose a problem to abutters depending on the water table hit. Mr. Carr stated that if the hearing were to be continued then Mr. Dow could come to speak on the issue.

Richard Walenda stated that he is also a state licensed plumber and that the water pressure issues in Sawyer Lake are relative to the pump and tank and not to the neighbors digging artesian wells.

Carolyn Baldwin requested to see the septic design and asked Mr. Walenda if he had considered trying to purchase the adjacent lot. Wendy Keane retrieved the assessing file so that the Board could review the design.

The Board discussed their concern with the small size of the lot and how the well and septic would meet setbacks and the proper distance from one another.

Ms. Broderick after consultation with Mr. Walenda, requested that Mr. Walenda's hearing be continued to the next regularly scheduled meeting on March 20, 2008, so that they may gather further information for the Board. She stated that they would also be researching the information regarding the empty adjoining lot and who the owner is.

The Board accepted the request to continue the hearing until the March 20, 2008 meeting.

**MOTION:** Paul Levesque moved to continue the public hearing to the next regularly scheduled meeting on March 20, 2008. Seconded by Ron Labelle. Motion carried 4-0.

**Public Hearing Case #03-2008 Deanne & Brian Carter applicants:** Request for a Variance from Article VII.B.2, to construct a 36'X16' deck on an existing dwelling which is located on a property which does not meet the minimum 2 acres and lacks frontage on a class V or better road. Property is located at 58 Terrell Way, a private road in the Rural District, Map 110 Lot 61.

Deanne Carter stated to the Board that she would like to attach a deck to the rear of her house for recreational and safety reasons. Mrs. Carter proposes to construct a 36'X16' deck on the rear of the dwelling. The deck will be 58' from the full lake elevation line and would remain within the current side setbacks as the dwelling, which are currently 12.5' from each side. She further stated that the stairs would be built into the deck so as not to further encroach upon setbacks. It was

also stated that the abutting houses are all closer to the water and have decks and the proposed deck would be typical of the area.

Paul Levesque stated that when he visited the property he measured the house to be 74' from the low water mark. Mr. Levesque further stated that although decks are typical in the neighborhood and the abutting houses are closer to the water, those dwellings and their amenities do not sway the decisions of the Board.

Doug Isleib, an abutter to the south of the property, stated that he does not have any objections to the proposed deck. He further stated that in 1992 he was granted permission to construct a deck onto his dwelling only 20' from the waterline and that the abutter on the other side was granted a variance in 1985 to construct the dwelling 35' from the water.

Mrs. Carter also pointed out that the construction of a deck would provide a second egress from the dwelling.

Israel Willard stated that his concern for the property was also a second form of egress because he noticed that there were small children who reside at the dwelling and was concerned about safety. Mr. Willard enquired if the applicant intended to enclose the deck. Mr. Carter stated that they do not plan to enclose the deck.

**MOTION:** Paul Levesque moved to close the public session. Seconded by Ron Labelle. Motion carried 4-0.

**Public Hearing Case #04-2007 Paul Vercellini applicant, Elsie King Trust owner:** Request for a Variance from Article VII.C.3, to construct a 26'X44' single family dwelling with attached 10'X12' deck on property which does not meet the minimum 2 acres and lacks 200' minimum required frontage. Property is located on NH Route 140 in the Rural District, Map 416 Lot 34.

Israel Willard stated that the application is incomplete and that he would like to see the case continued until a septic design was presented for the Board to review.

Wendy Keane stated that she had previously inquired of the Board if applications can be submitted for a property minus a septic design for consideration. She further stated that there were no objections to the inquiry and that it was her understanding that an application could be approved subject to a state approved septic design being present before a building permit would be issued.

Carolyn Baldwin stated that she remembered the question sent via email and in fairness felt that the applicant had provided the other information and the case should be heard.

Paul Vercellini, applicant, stated that he had previously attempted to purchase the abutting parcel to the property which comprised of approximately 19 acres. He was hoping to purchase the lot being discussed here tonight and do an open space subdivision when the lots were merged. Unfortunately the sale fell through and he is now looking to purchase this piece of property if the ZBA grants a variance, so that he can build a 26'X44' ranch style single family dwelling.

Bob Boulanger, appraiser for the property, stated that Elsie King, owner of the property, will sell the property to Mr. Vercellini if the ZBA approves the variance and he can obtain a state approved septic design.

Ron Labelle inquired why there is not a signed purchase and sales agreement (P&S) on the property. Carolyn Baldwin stated that there is a signed acknowledgement from the owner that Mr. Vercellini may speak about the property and that a signed P&S is not necessary for the hearing.

Doug Isleib stated that the ordinance states that if the property was created prior to 2000, then the variance request for a lack of frontage is not necessary. The Board discussed the ordinance and how it applies to this property.

The Board continued to discuss the property. It was the general consensus of the Board that it would be difficult to get a good bearing on the property due to the amount of snow. It is unclear if it is a property with wetlands or a fairly dry piece of land. The Board discussed septic designs and placement of the proposed structure with Mr. Vercellini.

**MOTION:** Israel Willard moved to close the public session. Seconded by Ron Labelle. Motion carried 4-0.

#### **DELIBERATIVE SESSION**

##### **Case #43-2007 – Daniel O’Donnell applicant:**

The Board discussed the shared septic system. Carolyn Baldwin stated that they are not planning to add another bedroom so that nullifies the septic issue. It was further discussed that the applicant will be squaring off the house and because the area is shared land with the condominium, they would not be encroaching upon setbacks.

**MOTION:** Paul Levesque moved to grant the variance as proposed in the application submitted, to construct a 6’X12’ addition to an existing structure for use as a bathroom/laundry room. The variance is granted with the findings that: There would be no diminution of value of surrounding properties as the additional bathroom will enhance the property, that granting the Variance would not be adverse to the public interest as it is in keeping with the styles and similar amenities 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.

##### **Case # 02-2008 John Walenda applicant:**

This case has been continued to the March 20, 2008 meeting at the request of Catherine Broderick, attorney speaking on behalf of Mr. Walenda so that additional information may be gathered.

**Case #03-2008 Dianne & Brian Carter applicants:** The Board discussed the deck as proposed on the application. Carolyn Baldwin stated that the deck would be in keeping with the neighborhood and amenities on neighboring houses.

Ron Labelle inquired why the town has a 75' setback from a water body if the state only mandates a 50' setback.

Carolyn Baldwin stated that towns have the ability to impose stricter regulations than those set forth by the state. Ron Labelle stated that he is opposed to the idea of anyone building closer than the allowed setbacks to water bodies because of the effect it may have on the water source and runoff issues caused by construction.

Israel Willard stated that a factor in this case that swayed him was the lack of a second egress from the property and that the construction of the deck would provide that to the homeowner for safety.

**MOTION:** Israel Willard moved to approve the application for a variance to construct a 36'X16' deck onto the rear of the existing structure. The variance is granted with the findings that there would be no diminution of value of surrounding properties as the deck is in keeping with the neighborhood and will enhance the property. That granting the Variance would not be adverse to the public interest as it is in keeping with the styles and similar amenities of similar properties in the neighborhood, that denial of the Variance would result in unnecessary hardship in that there would not be a reasonable area to put a second form of egress for safety from the property, that the granting of the Variance would do substantial justice and would not be contrary to the Spirit of the Ordinance. This variance is granted with the condition that the deck shall never be enclosed for living area.

Seconded by Paul Levesque. Motion carried 3-1 with Ron Labelle having the against vote.

**Case #04-2007 Paul Vercellini applicant, Elsie King Trust owner:**

Carolyn Baldwin stated that this variance is being sought for the lack of acreage and road frontage. The proposed structure would comply with all other setbacks as proscribed by Article IV Table 2. It was discussed by the Board that should the variance be granted that there would have to be strict conditions placed upon the approval. Paul Levesque stated that the Board has approved applications in the past and placed heavy restrictions and conditions on them.

Ron Labelle moved to grant the variance for the construction of a 26'X44' single family dwelling with an attached 10'X12' deck. The variance is granted with the findings that there would be no diminution of value of surrounding properties as the new construction house would not necessarily enhance the area but neither would it detract from the area. That granting the variance would not be adverse to the public interest as it is in keeping with the styles and similar amenities of properties in the neighborhood, that denial of the Variance would result in unnecessary hardship, 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 conditions:**

- 1) That the structure shall meet all setback requirements as set forth in Article IV Table 2.
- 2) That a state approved septic design with the proper radius' from well and lot lines be submitted to the Building Inspector before a permit is issued.
- 3) That the septic design delineates the wetlands on the lot.

Seconded by Paul Levesque. Motion carried 4-0.

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OTHER BUSINESS:

The Board discussed upcoming workshops with Wendy Keane.

It was also decided to postpone approval of the January meeting minutes until the March meeting.

Ron Labelle moved to adjourn the meeting at 8:45 p.m. Seconded by Israel Willard. Motion carried 4-0.

Respectfully Submitted,

Wendy L. Keane  
Recording Clerk

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