

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, May 15, 2008
MEETING MINUTES

Chairman Hackett called the meeting to order at 7:00 p.m. In attendance were Carolyn Baldwin, Ron Labelle and Wayne Gray. Absent were Israel Willard, Paul Levesque and Adam Gilbert. Chairman Hackett recorded the meeting in the absence of Wendy Keane, Recording Clerk.

Chairman Hackett brought forth the request from abutters and neighbors, for a re-hearing of case # 5-2008: J. Walenda applicant: Request for a Special Exception from Article VII.C.3 to construct a 24'X28' single-family dwelling which will encroach upon the setbacks per Article IV Table 2. Property located at 13 Wood Ave, a .18-acre lot in the Residential Lake District. Map 118 Lot 24.

This request for re-hearing was presented in letterform by several abutters and/or residents of the Sawyer Lake Community. Signatures on the request are: Dale & Terry Carr, Mill Morrison, Erica Randmere, Shirley St. Hillaire, Paul Coleman and Stacey Casaletti. Letter attached.

Carolyn Baldwin stated that with the change in ordinance and regulations there was a conflict in the requirements for a Special Exception. It is the opinion of Carolyn Baldwin that the abutters should be allowed to come in and voice their concerns.

Chairman Hackett stated that she is in agreement with Carolyn Baldwin, but her concern is that if the Planning Board has posted a public hearing on Article VII of the Zoning ordinance, will it stay any decision made by the Zoning Board during the time when Article VII (as voted on March 11, 2008) was in effect until the Town votes on whether to rescind Article VII as is presently reads?

Carolyn Baldwin stated that the Walenda case came before the Board prior to the official posting of the Planning Board.

Chairman Hackett pointed out that the posting by the Planning Board was on May 12th and the letter from the abutters is dated May 14, 2008. Carolyn Baldwin stated that the decision and application came after the March election and before the recent posting. Therefore the decision stands and the Board follows Article VII as was adopted on March 11, 2008. Carolyn Baldwin reiterated that there are conflicting provisions in the Ordinance.

Chairman Hackett stated that the conflict is that Article VII, as adopted 3/11/08, states that an applicant can build with a Special Exception when they do not meet setbacks, however Article IX, which is the criteria for approval, states that the applicant would have to meet all setbacks.

MOTION: Carolyn Baldwin moved to grant a rehearing on Case #05-2008 John Walenda.

In the absence two voting members of the Zoning Board, Chairman Hackett appointed Wayne Gray a voting member for this meeting.

Carolyn Baldwin stated that in support of the request for rehearing, the petitioners must state all reasons why they think the decision was unlawful, which the petitioners have done.

Seconded by Ron Labelle. Motion carried 4-0.

Ron Labelle inquired if the change in Ordinance had not occurred on March 11, 2008, would this have been a hearing for a Variance instead of a Special Exception. Chairman Hackett replied that it would have been an application for a Variance. Carolyn Baldwin stated that previously they would have had to apply for a Variance if they did not meet setbacks. Wayne Gray stated that the problem is that the new Ordinance creates a catch 22 situation.

The Board continued to discuss Article VII as adopted on March 11, 2008 and the problems it has created with decision making of the Zoning Board per the criteria of Article IX regarding Special Exceptions. They also discussed special exceptions, variances and Article IV Table 2 of the Ordinance, and how all of the Articles intertwine.

The Board discussed the application and that a state approved septic design is required when an application is submitted. Chairman Hackett stated that we discussed this at the meeting in April and it was reiterated at that time that an application is no longer to be accepted without a State approved septic design.

Chairman Hackett made the Board aware that there is a Public Hearing being held by the Planning Board on May 29, 2008 to discuss Article VII and all items involved with it's recent amendment. Chairman Hackett further pointed out that the special Town Meeting would be on July 22, 2008. Wayne Gray stated that the reason the meeting is posted for May 29, 2008 is due to the possibility that there may have to be a second public hearing prior to the Special Town meeting.

The Board continued to discuss the upcoming public hearing and Article VII.

Carolyn Baldwin stated that her concern with the April meeting was that the Board voted in favor of a special exception by majority (Carolyn Baldwin voted against the application) , and she is uncertain whether the provisions for the special exception would supercede the requirements for a special exception as dictated in Article IX. Carolyn Baldwin referred to the April minutes which state, “The existing language within Article VII.C.3, as adopted on March 11, 2008, supercedes the language as written in Article IX.B.2e”. Based on the uncertainty of the Boards ruling, Chairman Hackett asked Wendy Keane to contact Town Council in regards to the above predicament concerning Article VII and Article IX.

MOTION: Carolyn Baldwin moved to adjourn the meeting. Seconded by Wayne Gray. Motion carried 4-0.

Chairman Hackett adjourned the meeting at 7:40 p.m.

Respectfully submitted,

Wendy L. Keane
Land Use Clerk

THESE MEETING MINUTES ARE NOT OFFICIAL UNTIL VOTED ON BY THE ZONING BOARD OF ADJUSTMENT