

Town of Gilmanton  
Zoning Board of Adjustment  
Thursday August 16, 2007  
Meeting Minutes

Chairman Elizabeth Hackett called the meeting to order at 7:00 P.M. Members in attendance were, Carolyn Baldwin, Paul Levesque and Ron Labelle and 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. The Chairman further made the applicants aware that they have the right to have their hearing continued because though there was a quorum, a full Board was not available.

**CONTINUED-Public Hearing Case #13-2007 Don Bradley applicant:** Request for a Variance from Article VII.B.2 to construct a 10'X12' shed on a lot which does not have the required 1 acre or 125' of frontage on a class V or better road. Property is located at 1 Dock Rd., a private road in the Residential Lake District, Map 119 Lot 169.

Don Bradley stated to the Board that he would like to build a 10'X12' shed to store building materials and eventually lawn furniture and equipment.

Ron Labelle stated that it appears as if the shed would be built on a stonewall. Don Bradley stated that he could place the shed in a different location.

**MOTION: Carolyn Baldwin moved to close the public hearing. Seconded by Paul Levesque. Motion carried 4-0.**

**CONTINUED- Public Hearing Case # 23-2007 George & Linda Nazer applicants:** Request for a Variance from Article VII.B.2, to add a 10'X21' screen porch to an existing structure on a lot which does not meet the minimum 2 acre requirement. Property is located at 1121 Province Rd. in the Rural District District, Map 135 Lot 8.

Chairman Hackett recused herself, as she is an abutter. Carolyn Baldwin was appointed acting Chairman.

Wayne Hackett spoke on behalf of the Nazers who were unavailable to attend the hearing due to a pre existing engagement. Wayne stated that the case is being reheard due to the improper posting as a Special Exception rather than a Variance for the July meeting. Mr. Hackett stated that the Nazers would not be encroaching upon any of the abutters with the three-season enclosure.

The Board discussed the testimony from the previous meeting in July.

**MOTION: Paul Levesque moved to close the public hearing, seconded by Ron Labelle. Motion carried 3-0.**

**CONTINUED- Public Hearing Case # 24-2007 Kevin & Lisa Cloutier applicants:** Request for a retroactive Variance from Article VII.B.2 to replace a 13'X17' addition with a 15'X8' addition 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 11 Spruce Ave, a private road in the Residential Lake District, Map 119 Lot 28.

Kevin Cloutier spoke on behalf of the application and stated that as he said in the July meeting, he was not aware when rebuilding the addition that he was breaking any rules.

Bob Flanders, Code Enforcement Agent, stated that the Cloutiers simply made an error. He further stated that he has worked with the Cloutiers very closely on their renovation project for quite a while and finds them to be honest and hardworking people. He stated that MR. Cloutier on many occasions has called him to inquire about codes and what would need to be done to the property so that it is done correctly. Mr. Flanders further stated that when he went out to measure the addition after receiving the complaint, he did an inspection and noted that the work was structurally sound and done well. He again stated that he feels that the Cloutiers made a simple error and should be granted the Variance.

Mr. McVey, an abutter, spoke in favor of the addition and stated that the Cloutiers have made the property very appealing unlike the eyesore it previously was.

The Board discussed the testimony from the July meeting in regards to this case.

**MOTION: Carolyn Baldwin moved to close the public hearing, seconded by Ron Labelle. Motion carried 4-0.**

**Public Hearing- Case # 25-2007 Kevin & Lisa Cloutier applicants:** Request for a Variance from Article VII.B.2 to construct an 8'X8' deck on an existing dwelling 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 11 Spruce Ave, a private road in the Residential Lake District, Map 119 Lot 28.

Kevin Cloutier stated that he and his wife would like to place a small deck on the rear of the property as shown in the application. He stated that the steps would come off from the side of the deck and will not encroach upon the side setback requirements.

Mr. McVey, an abutter, spoke in favor of the application and stated that it would enhance the property.

The Board inquired if there were any plans to enclose the structure. Mr. Cloutier stated that it would be an open deck utilized for a grill and for recreation purposes.

**MOTION: Ron Labelle moved to close the public hearing, seconded by Carolyn Baldwin. Motion carried 4-0.**

**Public Hearing Case #26-2007 Mark Mathieu applicant:** Request for a Variance from Article VII.B.2 to construct a 10'X40' deck on an existing dwelling, which does not meet 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.

Mark Mathieu stated that he would like to build a deck onto his existing dwelling on Sawyer Lake. The deck would encompass three sides of the dwelling, one side of which would encroach upon the setbacks from a water body and a second side which would encroach upon the abutters land. Mr. Mathieu stated that the decks would not be enclosed and are similar to other decks in the area.

The Board discussed the distance of the front area of the deck from the water body (Sawyer Lake) and the pitch of the land.

Mr. Mathieu was asked if he had thought of putting the decks on only one side structure, not the lake side.

Mr. Mathieu stated that he would like to have the deck on the lake side of the house because of the view. He further stated that he couldn't put the deck on the road side of the house because the access to the deck would cut through a bedroom.

The Board continued to discuss the application as submitted.

Mr. John Collins, an abutter, spoke on behalf of the application. He stated that he is the abutter of which the setbacks would be encroached and has no problem with the plan.

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

**Public Hearing Case #27-2006 Philip O'Brien applicant:** Request for a Variance from Article VII. B.2 to construct a 24'X36' addition, 6'X36' porch, 8'X38' deck and a 10'X38' deck onto an existing dwelling 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 12 Fox Dr. a private road in the Residential Lake District, Map 121 Lot 37.

Phil O'Brien spoke on behalf of his application. Mr. O'Brien stated that he would like to put an addition on his existing dwelling as the present home is small and cramped. He stated that he will not be increasing the bedroom or bathroom count, but will be relocating them into the new proposed footprint.

The Board and Mr. O'Brien discussed the site and the slope of the land. It was inquired of Mr. O'Brien if he had an erosion mitigation plan. Mr. O'Brien stated that his contractor will be placing large boulders to mitigate the erosion that may happen, however he does not anticipate it to be a problem.

Discussion was held on the state approved septic design.

Carolyn Baldwin inquired why the proposal had so many decks. Mr. O'Brien stated that the decks were primarily for appearance sake and he would be able to place his lawn equipment and tools under them to shield them from the elements.

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

**DELIBERATIVE SESSION:**

**Deliberative session: Case #13-2007 Don Bradley applicant:**

The Board discussed the application as proposed. Paul Levesque stated he would like to see the shed moved away from the stonewall. The Board discussed where on the property the shed could be placed and maintain the required setbacks.

**Motion: Paul Levesque moved to grant the Variance for the shed to be placed at the tree line as indicated on the Hemlock and Dock Rd. side of the property.**

**The Variance is granted with the findings that: There will be no diminution of value of the surrounding properties. Granting of the Variance would not be contrary to the public interest. The denial of the Variance could result in unnecessary hardship to the applicants. By granting the Variance, substantial justice will be done. That the proposed Variance is not contrary to the Spirit of the Ordinance. With the condition that there be no electricity or plumbing and that the shed be placed on blocks and not a poured foundation.**

**Seconded by Carolyn Baldwin. Motion carried 4-0.**

**Deliberative Session: Case # 23-2007 George & Linda Nazer applicants:**

Chairman Hackett recused herself from the deliberative session as she is an abutter.

The Board discussed the application as proposed.

**Motion: Paul Levesque moved to grant the Variance with the following findings: There will be no diminution of value of the surrounding properties. Granting of the Variance would not be contrary to the public interest. The denial of the Variance could result in unnecessary hardship to the applicants. By granting the Variance, substantial justice will be done. That the proposed Variance is not contrary to the Spirit of the Ordinance. The Variance is granted with the following conditions: That the screen porch shall not be enclosed as living area and a heat source to be installed. The Screen porch shall be for seasonal use only.**

**Seconded by Carolyn Baldwin. Motion carried 3-0.**

**Deliberative session: Case # 24-2007 Kevin & Lisa Cloutier applicants:**

The Board discussed that this was a case which had been continued so that Mr. Flanders could speak on behalf of the building permit.

The Board discussed the testimony of Mr. Flanders and Kevin Cloutier.

**Motion: Ron Labelle moved to approve the retroactive Variance as submitted with the findings that: There will be no diminution of value of the surrounding properties. Granting of the Variance would not be contrary to the public interest. The denial of the Variance could result in unnecessary hardship to the applicants. By granting the Variance, substantial justice will be done. That the proposed Variance is not contrary to the Spirit of the Ordinance.**

**Seconded by Carolyn Baldwin. Motion carried 4-0.**

**Deliberative session: Case # 25-2007 Kevin & Lisa Cloutier applicants:**

The Board discussed the application as proposed and the setbacks from the property lines.

Chairman Hackett clarified that the stairs will be project from the side of the deck and will remain within setbacks.

**MOTION: Ron Labelle moved to approve the Variance as submitted with the findings that: There will be no diminution of value of the surrounding properties. Granting of the Variance would not be contrary to the public interest. The denial of the Variance could result in unnecessary hardship to the applicants. By granting the Variance, substantial justice will be done. That the proposed Variance is not contrary to the Spirit of the Ordinance. The Variance is granted with the following condition: That the deck shall not be enclosed to create living area.**

**Seconded by Carolyn Baldwin. Motion carried 4-0.**

**Public Hearing Case #26-2007 Mark Mathieu applicant:**

The Board discussed the application. The Board agreed that the encroachment on the setbacks to the water body would not be acceptable to the Board and that they would infringe upon the State setback requirements that the Board could not override in any circumstances.

The Board further discussed that the applicant has alternatives to deck placement which would not infringe upon any of the setback requirements.

**MOTION: Carolyn Baldwin moved to deny the application for a Variance with te finding that while there will not be any diminution of value of the surrounding properties, the granting of the Variance would be contrary to the public interest. The denial of the Variance would not result in unnecessary hardship to the applicants due to the ability to redesign and place the deck in an alternate location. . By granting the Variance, substantial justice will not be done. That the proposed Variance is contrary to the Spirit of the Ordinance.**

**Seconded by Ron Labelle. Motion carried 4-0.**

**Deliberative session: Case #27-2006 Philip O'Brien applicant:**

The Board discussed the application as proposed.

There was lengthy discussion on potential erosion problems stemming from the improvements on the land. The Board discussed what steps were in place to control erosion and sediment. It was noted that the site work has a plan for erosion control by way of boulders and retaining wall. Discussion was also had on the amount of decking proposed to the project.

**MOTION: Carolyn Baldwin moved to grant the Variance as submitted with the findings that: There will be no diminution of value of the surrounding properties. Granting of the Variance would not be contrary to the public interest. The denial of the Variance could result in unnecessary hardship to the applicants. By granting the Variance, substantial justice will be done. That the proposed Variance is not contrary to the Spirit of the Ordinance. The Variance is granted with the following condition: That the deck shall not be enclosed to create living area.**

**Seconded by Ron Labelle. Motion carried 4-0.**

**OTHER BUSINESS:**

Chairman Hackett moved to accept the June minutes as amended.

There was a discussion held on a workshop to be held by LGC in October.

**MOTION: Paul Levesque moved to adjourn the meeting at 9:00 p.m. Seconded by Ron Labelle. Motion carried 4-0.**

**Chairman Hackett adjourned the meeting at 9:00 p.m.**

Elizabeth Hackett, Chair

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