



**TOWN OF GILMANTON  
PLANNING BOARD  
Thursday, February 10, 2022 – 6:30PM  
Academy Building - 503 Province Road  
Gilmanton, NH 03237  
[BDaigneault@gilmantonnh.org](mailto:BDaigneault@gilmantonnh.org)**

**MINUTES APPROVED  
JOINT MEETING OF THE GILMANTON  
PLANNING BOARD &  
ZONING BOARD OF ADJUSTMENT**

**A. CALL TO ORDER BY CHAIRMAN**

Those present included ZBA Members Leslie Smith, Perry Onion, Vice Chair Nate Abbott, and Chair Elizabeth Hackett, Planning Board Members Jake Dalzell, Parker Hoffacker, Chair Roy Buttrick, Vice Chair Vincenzo Sisti, Marty Martindale, and staff Bre Daigneault.

Members of the public present included Paul Zuzgo, Rachel Locke Emerson, and Mark Sargent.

**B. ROLL CALL**

**C. SALUTE TO THE FLAG**

**D. PUBLIC HEARING**

**a. NEW-**

**Joint Case #1**

**ZONING BOARD OF ADJUSTMENT CASE #2022-5:** Gary A. McPhail, property owner, represented by land agent Paul Zuzgo, requests a variance from Zoning Ordinance Article IV Table 2 to complete a boundary line adjustment with abutting property map/lot 110-49. The boundary line adjustment would cause the subject property to become 1.82 acres from 2.17 acres, below the 2-acre requirement. The property is located on Justamere Ln, known as map/lot 110-048, located in the Rural zone.

Chair Hackett announced that Member Leslie Smith would be recusing herself as an abutter to the subject property.

Mr. Zuzgo stated that before Mr. McPhail sold the vacant lot, he wanted to complete a lot line adjustment with the abutter to make it a straight boundary line. Currently, the abutter's lot is long, narrow, and "L" shaped. This would make the abutter's lot more conforming. After completing the plan, the McPhail lot came to 1.82 acres, which is under the 2-acre minimum. Mr. Zuzgo has already applied to the State and received their subdivision approval.

Chair reiterated that Member Smith would be recusing herself as she is an abutter. That leaves a three-member board. All members would need to vote in the affirmative in order to proceed. It is up to Mr. Zuzgo if he would like to continue with tonight's public hearing or postpone to the next meeting. Mr. Zuzgo conferred with the applicant's realtor, Maggie Locke Emerson. Ms. Emerson told how Mr. McPhail wished to give his long-time neighbor additional land prior to selling his lot. Mr. Zuzgo stated they now have State subdivision approval. He explained the reasoning for needing State stamped plans. Chair Hackett stated the Board would need a decision whether they wish to proceed or not. Ms. Locke Emerson confirmed that if they chose to postpone, they would have to wait another month. At that time, there is still no guarantee of a five-member board being present. Mr. Zuzgo and Ms. Locke Emerson decided to proceed with the hearing this evening. Member Abbott had not seen a case such as this where State subdivision had been needed. Mr. Zuzgo explained that

any subdivision or lot line adjustment making a lot smaller than 5 acres needs State approval. VC Abbott questioned whether they would need to return for a variance because the lot is under 2 acres. Member Onion inquired if would lot 48 being wanting to construct a house. It was explained, they would not need a variance to build on a lot under 2 acres. They would need a variance to build on a lot without frontage on a class V road.

Chair opened to public hearing. Ms. Smith asked if the intention was to build on either of the lots. Ms. Emerson stated it would straighten the boundary line and give the abutter extra land. It would allow for more area on lot 49. With no further comment. **VC Abbott made the motion to close the public hearing. Member Onion seconded. Motion passed 3-0**

DELIBERATIVE SESSION:

**VC Abbott made the motion to grant the variance of ZONING BOARD OF ADJUSTMENT CASE #2022-5:** Gary A. McPhail, property owner, represented by land agent Paul Zuzgo, requests a variance from Zoning Ordinance Article IV Table 2 to complete a boundary line adjustment with abutting property map/lot 110-49. The boundary line adjustment would cause the subject property to become 1.82 acres from 2.17 acres, below the 2-acre requirement. The property is located on Justamere Ln, known as map/lot 110-048, located in the Rural zone.

- a. The granting of the variance would not be contrary to the public interest because the health, safety, or welfare of the public will not be threatened;
- b. The spirit of the Ordinance is observed because: the adjustment of the boundary line will not cause the character of the neighborhood to be adversely affected.
- c. By the granting of the variance substantial justice will be done because a large lot would be made slightly nonconforming whereas a very non-conforming lot would be made much more usable and more conforming in balance.
- d. The Board saw no evidence presented and formed the opinion that granting the variance would not create diminution of value to the surrounding properties;
- e. Literal enforcement of the ordinance could result in unnecessary hardship to the property owner seeking it owing to special conditions of the property, that it is situated among an assortment of lot sizes both conforming and nonconforming and the profile of the 2 properties is irregular distinguishing it from other properties in the area.
- i. no fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to this property because: the result of the boundary line adjustment would be a fairer use of the two properties and create a more orderly boundary system between the two properties.

AND

- ii. the proposed use is a reasonable one because: the property giving land is still very useful for its owner and the property acquiring land is made more regular and more useful for its owner.

**Member Onion seconded. Motion passed 3-0.**

**PLANNING BOARD CASE #LLA2022-701:** Land agent Paul Zuzgo, on behalf of property owners Gary A. McPhail and Mathew Douglas as trustee of the Pine Haven Realty Trust, are requesting a lot line adjustment between their properties. The adjustment would transfer 0.35 acres from map/lot 110-48 (McPhail) to 110-49 (Douglas). The properties are located on Justamere Ln in the Rural zone.

Chair Buttrick inquired if they had received a well release. Mr. Zuzgo responded that the State did not ask for one. It is no longer a well release, but now an easement. Chair Buttrick inquired if any test pits had been done. Mr. Zuzgo stated there were test pits completed on lot 48. Lot 49 has an existing septic, so test pits were not necessary.

Member Hoffacker made the motion to accept as the application as complete. Member Dalzell seconded. **Motion passed 5-0**

Chair Buttrick opened the case to public hearing. Ms. Smith inquired about the discussion on septic system. It was reiterated. With no further comments, Chair Buttrick closed the public hearing.

Chair Buttrick called for board discussion. Member Dalzell inquired about the 75' setback from the water. Ms. Daigneault read the recommendations from Planner Mark Fougere: the pins are set prior to recording and show the 75' setback from lake. The well location was briefly discussed. Mr. Zuzgo stated all the monuments have been set.

Member Hoffacker made the motion to approve the application with the condition of adding the 75' setback to the shoreline. Member Dalzell seconded. **Motion passed 5-0**

## **Joint Case #2**

**PLANNING BOARD PRIVATE ROAD AGREEMENT:** Property owner James E. Rooney, Jr is requesting a private road agreement with the Selectmen to build on 24 Intervale Dr. The parcel is identified as tax map and lot 130-045. Pursuant RSA 674:41, the Selectmen shall request the Planning Board review and comment on the application to determine whether the private road meets minimum standards for year-round access by emergency vehicles.

The property owner was not present. Where this is not an application to the Planning Board, no motion was made.

**ZONING BOARD OF ADJUSTMENT CASE #2022-6:** James E. Rooney, Jr, property owner, is requesting a variance from Article VII, Section C.1 to build a single-family dwelling on a non-conforming lot that does not have frontage on a class V road or better. The property is located at 24 Intervale Dr, consisting of 1.885 acres, known as map/lot 130-045, located in the Rural zone. VC Abbott made the moved to continue to March 17<sup>th</sup> meeting at 7pm. Member Onion seconded. **Motion passed 4-0**

Chair Buttrick called for a brief recess. After a 5 minute break, Chair Buttrick called the board back to order.

**b. OLD-**

**PB CASE #SUBMIN2022-501:** Property owners Emmanuel J. & Miranda M. Reyes, represented by land agent Mark C. Sargent, are applying for a Minor Subdivision to their property located at 27 Willowgrass Lane in Gilmanton, NH, known as map and lot 414-019. The proposal would subdivide 3.42 acres of vacant land leaving 2.51 acres of vacant land. The property is located partially in the Rural Zone. This is a continuance from Jan. 13, 2022. Mr. Sargent described the subdivision. In May of last year, the applicants did receive a variance for the reduced frontage. This would be essentially the same configuration as the approved subdivision in 2003 (these two lots were later merged by the property owner). Chair Buttrick inquired of the grade of the land and the location of the test pits. Mr. Sargent stated the grade is not too bad. It does go up a little higher to where the test pits are shown. The location would be a nice spot for a house lot. Ms. Daigneault stated the road agent had concern with potential driveway locations. Additionally, Planner Mark Fougere submitted comments to include: State subdivision approval be submitted, note the ZBA approval date and variance on plan, and to set pins prior to recording. Chair Buttrick also stated the wetlands stamp should be added to the plan.

Member Hoffacker made the motion to accept the application as complete. VC Sisti seconded. **Motion passed 5-0**

Chair Buttrick opened the meeting to public hearing. With no comments, Chair Buttrick closed the public hearing.

Member Hoffacker made the motion to approve application with the following conditions:

1. Proposed driveway location be placed on the plan
2. Wetlands stamp be placed on the plan
3. ZBA approval be noted on the plan
4. Pins be set prior to recording

Member Dalzell seconded. **Motion passed 5-0**

**E. MINUTES**

**Planning Board-** Minutes of January 13, 2022

Member Hoffacker made the motion to accept minutes as written. VC Sisti seconded. Member Martindale recused himself as he was not present. **Motion passed 4-0**

Members discussed the CIP. Ms. Daigneault stated the Selectmen had appointed Select Chair Mark Warren to oversee the CIP as the Planning Board ex officio. The intent of a CIP was explained to newer members. VC Sisti stated there are some people in town who do not feel a CIP is beneficial. This allows to keep drastic tax spikes and keeps a more level tax rate. Chair Buttrick felt being able to budget for equipment a little each year does keep from having tax spikes and makes it easier to accept grants. Ms. Daigneault added that anything going into to CIP and capital reserve accounts are

voted on each year by town ballot. Some accounts will additionally need a secondary vote by taxpayers in order to expend the money.

**F. ADJOURNMENT**

Member Dalzell made the motion to adjourn. VC Sisti seconded. **Motion passed 5-0**

*Respectfully Submitted,  
Bre Daigneault, Community Development Director*

*Authorized by* \_\_\_\_\_ *Date:* \_\_\_\_\_  
*Chairman C. Roy Buttrick*