

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Chair Elizabeth Hackett called the meeting to order at 7:05 PM.

Members attending: Elizabeth Hackett, Nate Abbott, Perry Onion, Mike Teunessen, Leslie Smith, Zannah Richards (alternate)

Members not attending: none

Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair explained the ZBA procedures. Three positive votes would be needed for any decision to pass. There is a full schedule, and the ZBA would like to end the meeting by 10PM.

**OLD BUSINESS**

**Continued Public Hearing Case # 2021-08 Spaulding, Matt, applicant, Douglas Monson, owner:** request a variance from Zoning Ordinance Article IV, Table 2 to increase the volume of a storage building that is located in the road setback. Property is .75 acres located at 502 Crystal Lake Road, Map/Lot# 107-012 in the Rural zone.

Ms. Hackett indicated that the hearing had been continued so the applicant could contact the owner about eliminating the balcony/deck on the storage building.

Mr. Spaulding said the owner was willing to accept the variance to raise the roof, increasing the headroom of the second story with no balcony/deck.

**MOTION**

**Mr. Teunessen moved to close Case # 2020--08 Spaulding, Matt, applicant, Douglas Monson, owner.**

Seconded by Mr. Onion.

**Motion passed unanimously.**

**Continued Public Hearing Case # 2021-10 David & Patricia Burl, applicant owners:** request a variance from Zoning Ordinance Article VII, Section C-1a to build a SFD on a class 6 road. Property is 40 acres located on Canaan Rd., Map/Lot# 411/015 in the Rural zone.

The applicant or representative was not in the room, and did not contact the office. The ZBA held the hearing till the end.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**NEW BUSINESS**

**Public Hearing Case # 2021-13 Justin Caldon, applicant, Douglas Towle, owner:**

request a variance from Zoning Ordinance Article IV, Table 2 to build a shed in the road setback. Property is .42 acres located at 42 Loon Pond Rd., Map/Lot# 136/037 in the Rural zone.

Mr. Caldon said the neighbor had a shed he was giving to Mr. Towle so he wanted to amend his application to add an additional 10' x 12' shed in the setbacks. At some time the road in front of the property had been straightened, leaving extra wide town road depth. Both sheds would be on the property behind the stone wall.

Ms. Hackett reiterated that the road was shifted. The wall is where the property line is located, far from the road. She read a letter from abutter Wells, who approved of the additional shed. She said that normally the ZBA doesn't allow things to be added to an application, but the abutter has no objection.

Ms. Smith said the second shed is close to the side property line.

Mr. Caldon said it would be 10' from the abutter's property line.

Ms. Smith asked if it could be moved near the first shed.

Mr. Towle didn't think that would look good. He said the the abutter, Mr. Thornton, approved, and he could get a letter stating that.

Mr. Abbott said all abutters should be notified about the second shed.

**MOTION**

**Mr. Onion moved to close Public Hearing Case # 2020-13 Justin Caldon, applicant, Douglas Towle, owner.**

Seconded by Mr. Teunessen

**Motion passed unanimously.**

**Public Hearing Case # 2021-14 Jeffrey & Debra Grush, applicant owners:** request a variance from Zoning Ordinance Article IV Table 2, & Article VII-C2 to build addition in the lake setback. Property is .74 acres located at 6 Hemlock Dr., Map/Lot# 122/097 in the Res. Lake zone.

Ms. Grush said they were looking to make a full-time residence, and as such would like an addition with attached garage, for reasons of comfort, and Mr. Grush's difficulty walking. They would like to drive into the garage and walk directly into the mud room. Two structures will be removed: a generator shed

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

& the screened porch. Another shed not on the submitted plan will also be removed. The house was built in the 60's before zoning, and is not 75' back from the shoreline. They would like to keep the same building alignment on the property.

Mr. Abbott said most of the house is inside the 50' mark from the shore.

Mr. Onion said the addition would be no closer to the water than the existing house.

Ms. Hackett said the proposal is for a 28' x 44' addition, plus a 24' corner connect to the den, and a deck 8' deep. Everything is inside the lake setback.

Mr. Teunessen asked if they would be opposed to a condition that they cannot enclose the deck.

Ms. Grush said "no".

Ms. Richards asked where the stairs would be, off the deck.

Ms. Grush said she was not sure of the deck height, but the stairs could be off the side.

**MOTION**

**Mr. Abbott moved to close Public Hearing Case # 2020-14 Jeffrey & Debra Grush, applicant owners.**

Second by Mr. Teunessen

**Motion passed unanimously.**

**Public Hearing Case # 2021-15 Michael Day, applicant owner:** requests a variance from Zoning Ordinance Article IV Table 2, & Article VII-C3 to build a garage in the road & side setbacks. Property is .55 acres located at 12 Aspen Ave., Map/Lot# 119/183 in the Res. Lake zone.

Mr. Day wanted to build another garage. He said the abutters have no objection. In Sawyer Lake it is hard to find anyone that isn't in the setback. It would be 28' x 20' on concrete pavers with electric, and no other amenities.

Ms. Hackett said it would only be 10' from neighbors. There are a couple of derelict autos near the space.

Mr. Day said the autos were on the abutter's property. The garage would be one story.

Mr. Abbott asked to have the access explained.

Mr. Day said the lot has permitted driveways off Mallard and Aspen. The existing garage is used to store antique cars. He presented letters from 4 abutters.

Ms. Hackett read the letters. All had no objections.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**MOTION**

**Mr. Onion moved to close Public Hearing Case # 2020-15 Michael Day, applicant owner.**

Second by Mr. Teunessen

**Motion passed unanimously.**

**Public Hearing Case # 2021-16 Scott & Bonnie Cote, applicant owners:** request after-the-fact variance from Zoning Ordinance Article IV Table 2 & Article VII-C2 to add a deck in the road setback. Property is .59 acres located at 56 Heath Dr., Map/Lot# 112/043 in the Rural zone.

Mr. Cote said he purchased the property 9 years ago. The deck is the way it is because the house is set at an angle.

Ms. Hackett said Heath is a short road, and hard for 2 cars to get by. 35' from the road would be way up the hill. She understood that it was purchased as it is. It would be a concern if the house was closer to the road. She indicated that there is no septic of record with DES.

Mr. Cote said the septic they have is operating fine. He doesn't have a record of it, so they are putting in a new one just for the new ADU.

**MOTION**

**Mr. Onion moved to close Public Hearing Case # 2020-16 Scott & Bonnie Cote, applicant owners.**

Second by Mr. Teunessen.

**Motion passed unanimously.**

**Public Hearing Case # 2021-17 Brian & June Vaillancourt, applicant owner:** request after-the-fact & new variance from Zoning Ordinance Article IV Table 2 & Article VII-C2 to add a deck & stairs in the lake & side setbacks. Property is .17 acres located at 107 Lakeshore Dr., Map/Lot# 132/001 in the Rural zone.

Mr. Vaillancourt said they bought the property 5 years ago. The decks were not safe so they were rebuilt. They want to take the stairs from one side and move them to the other side and add a triangle to connect the decks. The steps would come out 4' toward the abutter.

Ms. Hackett stated those steps would be about 15' from the neighbor.

**MOTION**

**Mr. Teunessen moved to close Public Hearing Case # 2020-17 Brian & June**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**Vaillancourt, applicant owner.**

Seconded by Ms. Smith.

**Motion passed unanimously.**

**Continued Public Hearing Case # 2021-10 David & Patricia Burl, applicant**

**owners:** request a variance from Zoning Ordinance Article VII, Section C-1a to build a SFD on a class 6 road. Property is 40 acres located on Canaan Rd., Map/Lot# 411/015 in the Rural zone.

The applicant or representative was still not in the room.

**MOTION**

**Mr. Teunessen moved to continue Public Hearing Case # 2021-10 David & Patricia Burl, applicant owners to the regular ZBA meeting on July 15, 2021 at 7PM.**

Seconded by Mr. Abbott.

**Motion passed unanimously.**

**DELIBERATIVE SESSION:**

**Case # 2020--08 Spaulding, Matt, applicant, Douglas Monson, owner.**

Ms. Hackett said the owner had wanted a balcony/deck on the storage building. The hearing was continued to find out if he would accept having no balcony/deck.

**Mr. Abbott moved to grant a variance in Case # 2021-08 Spaulding, Matt, applicant, Douglas Monson, owner: requesting a variance from Zoning Ordinance Article IV, Table 2 & Article VII-C4 to increase the volume of a storage building that is located in the road setback. Property is .75 acres located at 502 Crystal Lake Road, Map/Lot# 107-012 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;**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

- b. The spirit of the Ordinance is observed because the essential character of the neighborhood will not be altered;
  - c. By the granting of the variance substantial justice will be done because the owner will have better access on the second floor of the building;
  - 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, being the configuration of buildings, and the shape of the lot, distinguish 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 there will be an improvement in the existing use and no change in the use of the structure,
- AND**
- ii. the proposed use is a reasonable one because the shape of the building does not allow one to move freely in the second story.

**CONDITIONS:**

1. Storm water run-off provisions shall be installed, & certified effective & complete by a certified professional in stormwater management, within 6 months from receiving a building permit, including certifying provisions of ZBA case# 2015-00003.
2. No additional construction or additions shall be allowed on the lot.
3. No balcony or raised deck shall be added to the building.
4. Steps to the 2<sup>nd</sup> level shall not change location
5. Building shall be used for storage only, but not for living space.

Mr. Teunessen seconded.

**Motion passed unanimously.**

**Case # 2021-13 Justin Caldon, applicant, Douglas Towle, owner**

Ms. Hackett said they heard that the owner wanted to put additional shed on the

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

property in the setbacks.

Mr. Abbott requested amendment be submitted to include the second structure, and that abutters be notified to see if they have any objection. If the board doesn't hear from abutters, it will assume there is no objection. It isn't transparent that 2 sheds are wanted on the property in the setbacks, if abutters aren't noticed.

**MOTION**

**Mr. Abbott moved to reopen and continue the public hearing of Case # 2021-13 Justin Caldon, applicant, Douglas Towle, owner to the July 15, 2021 meeting at 7pm for purpose of allowing the applicant to amend the application and give notice.**

Seconded by Ms. Smith.

**Motion passed unanimously.**

**Case # 2021-14 Jeffrey & Debra Grush, applicant owners**

**Mr. Teunessen move to grant a variance in Case #2021-14 Jeffrey & Debra Grush, applicant owners: request a variance from Zoning Ordinance Article IV Table 2, & Article VII-C2 to build a single-story addition as to plans submitted in the lake setback. Property is .74 acres located at 6 Hemlock Dr., Map/Lot# 122/097 in the Res. Lake 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 essential character of the neighborhood will not be altered;**
- c. By the granting of the variance substantial justice will be done because the owner will be able to age safely with an attached single-story addition;**
- 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, .74 acre is much larger than the average lot in the Sawyer Lake District, distinguishing it from other properties in the area,**
  - i. no fair & substantial relationship exists between the general**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

public purposes of the ordinance provision & the specific application to this property because the addition will be no closer to the lake than the existing house,

**AND**

- ii. the proposed use is a reasonable one because the owners want to live in the house year-round, safely.

**CONDITIONS:**

1. A Shoreland notification permit shall be received before a building permit is issued.
2. Provisions to keep runoff from going into the lake shall be certified by a certified professional in storm water management.
3. No additions or additional structures may be built in any setback on the property.

Mr. Abbott seconded.

**Motion passed unanimously.**

**Case # 2021-15 Michael Day, applicant owner**

**Mr. Abbott move to grant a variance in Case #2021-15 Michael Day, applicant owner:** requests a variance from Zoning Ordinance Article IV Table 2, & Article VII-C3 to build a single-story 28' x 20' garage in the road & side setbacks. Property is .55 acres located at 12 Aspen Ave., Map/Lot# 119/183 in the Res. Lake 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 essential character of the neighborhood will not be altered, and the new building is further from the road than the one other building on the road;
- c. By the granting of the variance substantial justice will be done because the vehicle storage and maintenance that the owner plans to do will be possible;
- d. The Board saw no evidence presented and formed the opinion that granting the variance would not create diminution of value to the

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

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 the lot is the product of the merger of 4 original house lots, 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 ample space exists,

AND

- ii. the proposed use is a reasonable one because the owner's vehicle will be kept safe, secure, and out of sight.

**CONDITIONS:**

1. There shall be no additional structures or additions on the property.
2. The garages and sheds shall not be used for living space, storage only.
3. A surveyor shall mark and certify this building to be no closer than 10' to the abutting property line, and no closer than 25' to the Mallard Avenue property line.

Mr. Onion seconded.

**Motion passed unanimously.**

**Case # 2021-16 Scott & Bonnie Cote, applicant owners**

**Mr. Abbott moved to grant a variance in Case #2021-16 Scott & Bonnie Cote, applicant owner; request after-the-fact variance from Zoning Ordinance Article IV Table 2 & Article VII-C2 to add a deck in the road setback. Property is .59 acres located at 56 Heath Dr., Map/Lot# 112/043 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 essential character of the neighborhood will not be altered;
- c. By the granting of the variance substantial justice will be done because the deck has been in the present location for many years without problems to

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

the neighborhood;

- 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 the house had elevation over the road providing the deck with a unique view to the lake, 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 to conform, this deck would need to be altered in an unacceptable way,

AND

- ii. the proposed use is a reasonable one because a substantial value to the property is its orientation to the lake.

**CONDITIONS:**

- 1. There shall be no additional structures or additions in the setbacks.
- 2. The deck shall not be enclosed, or used for living space.

Seconded by Mr. Onion.

**Motion passed unanimously.**

**Case # 2021-17 Brian & June Vaillancourt, applicant owner**

**Mr. Teunessen move to grant a variance in Case #2021-17 Brian & June Vaillancourt, applicant owner; request after-the-fact & new variance from Zoning Ordinance Article IV Table 2 & Article VII-C2 to add a deck & stairs in the lake & side setbacks. Property is .17 acres located at 107 Lakeshore Dr., Map/Lot# 132/001 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;

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

- b. The spirit of the Ordinance is observed because the essential character of the neighborhood will not be altered;
  - c. By the granting of the variance substantial justice will be done because the benefit to the applicant does no harm to the general public;
  - 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 there is an egress problem that is solved by the application, 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 deck, having been made into a balcony, should have access with steps for safety,
- AND**
- ii. the proposed use is a reasonable one because the number of egress points is increased.

**CONDITIONS:**

- 1. No structure shall be closer to the lake than the lake side of the existing 24' x 10' deck.
- 2. No structure shall be closer to the side property line than the existing 6' x 38' deck.
- 3. There shall be no additional structures or additions on the property other than those approved in this decision.
- 4. The lot shall not have any additional impervious surfaces.
- 5. The decks shall not be enclosed or used for living space.

Seconded by Mr. Abbott.

**Motion passed unanimously.**

**OTHER BUSINESS**

Reminder of joint meeting on July 8, 2021.

APPROVED

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY JUNE 17, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**APPROVAL OF MINUTES** – May 20, 2021 meeting

**MOTION: Mr. Abbott moved to approve the minutes of the May 20, 2021, meeting as amended.**

Seconded by Ms. Smith.

**Motion passed unanimously**

ADJOURNMENT: Meeting adjourned at 9:10 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator