

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY OCTOBER 17, 2019 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:06 PM.

Members attending: Elizabeth Hackett, Perry Onion, Mike Teunessen, Zannah Richards

Member not attending: Nate Abbott, Leslie Smith (alternate member)

Also in attendance: Annette Andreozzi, Land Use Administrator

The Chair made introductions and explained the ZBA procedures.

The Chair stated that there were only 4 Board members present and the applicant could ask to continue until a future meeting. Three positive votes would be needed for any decision to pass. The one applicant stated he wanted to continue.

Public Hearing Case #2019-21 John Funk & Deborah Chase, owners: request a variance from Zoning Ordinance Article IV Table 2 to build a 14' x 20' addition into the setbacks: 13.3' side, 1.7' road & 1.4' wetland. Property is .19 acres located on Cat Alley, Map/Lot# 127/47, in the Village zone.

Mr. Funk stated that he and his wife lived in Gilmanton for years. The present lot was part of his original purchase with his house. He used the building on this lot for storage. The new owners of his house weren't interested in the lot with the storage building. He had asked a number of neighbors if they wanted to buy the lot. No one was interested, so he put it up for sale. Interested people either wanted the lot for storage, or wanted to build a house. He didn't know if a house could be built on the lot, so he contacted Varney Engineering. They decided the lot could be built on, if it received a variance. Mr. Funk made a small house design that was compatible with the Historic District. He works in Concord, and would like to have a house in Gilmanton. It would be one bedroom with 540 sq. ft of living area. The technical standards he has to meet for a variance are:

#1 Request cannot be contrary to the public interest. The Zoning Ordinance recognizes the village zone is different from other zones. There are houses all around his lot that don't meet setbacks. The Village has a mixed-use character in concentrated community living.

#2 The spirit of the ordinance is observed because the property use would be consistent with the area.

#3 Substantial justice is the benefit to the applicant should not be outweighed by harm to the public. The house wouldn't look markedly different than the building does now. It will be compatible with the Historic District. Most of the building is beyond the 35' road setback. There wouldn't be an intrusion to the look from the road. Most of the addition is in the rear. There is nothing behind the building except a banking. The addition would hardly be visible to any existing dwelling. Residential use is compatible with other residential uses in the area. He showed the assembled the drawings of what he wants to do.

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#4 The value of surrounding properties would not be hurt because it is a small house to the rear of the lot meeting the historic rules. There are no houses behind the shed. Only a minor difference would be seen from what is there now. If the current building is used as storage with equipment around it, that would diminish values.

#5 Any use that needs expansion would need a variance. The small size of the property restricts the uses. He would create an affordable housing opportunity.

This use of a unique property would meet the criteria for a variance.

Ms. Hackett noted the notice of application stated a distance she didn't see on the plan. Staff showed that the wetland setback line was different from the edge of the wetland.

Mr. Funk said he would try to preserve trees. The driveway would be off Cat Alley where there is a gap.

Ms. Richards clarified the new driveway vs the existing driveway off Currier Hill Road.

Mr. Teunessen asked about water.

Mr. Funk said there would be a drilled well to the right of the existing shed.

Ms. Richards asked about septic pipes above ground.

Mr. Funk said he didn't know yet.

Ms. Richards said the base of the shed already has a water problem, and water comes down the hillside.

Mr. Funk said he would elevate the existing shed. It had been well built. The water from the Stubbs' property goes down into the wetland gully not to the existing building.

Mr. Teunessen asked about the HDC, and was told that meeting would be the next week.

Ms. Ronstadt objected to increasing the density of the neighborhood, which is contrary to the rural character. She said that if it was ok for Mr. Funk to have a small house, she should be able to divide her property and build a lot of little houses. She expressed concerns about her water being disturbed, which would not benefit the community. The Tavern has an easement across the Funk property for its water system. She said that Mr. Funk knows about it. It is on his deed. She showed a copy of the deed. If the builder makes a mistake and disturbs the water line it would put her out of business, that would be a lot of money. She showed a plan that showed where her water line was thought to be.

Mr. Funk said construction would not be anyway near her water line. He would work with Dig Safe and make sure the water line would not be disturbed.

Ms. Ronstadt stated her business is the sole user of the water line.

Mr. Onion asked about the culvert.

Ms. Ronstadt explained that water comes under the road to the old salt shed area. That is different from her water line.

Ms. Hackett restated that the exact location of the water line is unknown, but in the area noted on the plan that Ms. Ronstadt showed.

Mr. Funk said he respected what Ms. Ronstadt was saying, but he would locate the pipe and if it was in the way he would change his plans.

Mike Smith, abutter at 8 Cat Alley, said that tiny houses are a fad, a short-term phenomenon. That type of house doesn't fit this community character. The property

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looks good now because it is taken care of by the owner. We don't like him building. We thought we didn't need to buy the property because we were protected from anyone building on it by its small size. He is charging too much for the property. Mr. Funk doesn't live here anymore.

Mr. Currier said it is the smallest lot that was ever done in the town. If Mr. Funk was on this Board, this lot wouldn't have a chance. All water goes there. It would be a mess if he was building. It will create problems in the Corner that we don't have now. If something happens to Ms. Ronstadt's waterline, she will come to the ZBA and make them pay her to correct it. A residence there will not fit with the character.

Ms. Currier said there are no guide lines for tiny homes. Gilmanton has poor water so for the Ronstadts to have pristine water that is amazing. What if Mr. Funk does something that ruins it. He could disturb the neighbors' wells. She thought the shed was in the wetlands. She asked if water would run into other properties. Trucks that are very big might hit a tree. If this is allowed other people will want to build tiny houses. He doesn't live here.

Kevin Wilcox, 34 Currier Hill Road, said all the homes in the area are large. Access to that lot multiple times a day will make noise for his house.

Mr. Ronstadt said if the property is left as it is it might be unsightly, but when he stops owning the house it could be unsightly.

Ms. Cook, 29 Currier Hill Road, said density is an issue.

Mr. Funk said he understood the anxiety over something new. His application was not a tactic to make someone pay more for the property. He is selling it at what he paid. It is not a tiny house. It is a small house. It is about making use of the property. The master plan is concerned about sprawl. This is consistent with in-fill building. On the map it only seems to be a small lot. He takes the concern about the water line very seriously. Any heavy equipment brought in would be done carefully. He wouldn't construct a basement if he runs into ledge.

Ms. Gilman said she could not agree with an approval. It would set a precedent. If he builds with no garage, someone will want to build one and make additions. It wouldn't stop.

Warren Vesey stated that the proposal doesn't meet anything in Article VII of the zoning ordinance. It is not a residential structure.

Ms. Currier said that Mr. Funk was insulting everyone's intelligence, because everyone knows what a 1/4 acre looks like.

Staff stated, for the Board, that the tiny house idea is presently popular, but the international building code does not have provisions for what is known as a tiny house. This house would be small and will have to meet all the building codes, or a permit to build would not be given.

Mr. Onion moved to close Public Hearing Case # 2019-21 John Funk & Deborah Chase, owners.

Seconded by Ms. Richards.

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Motion passed unanimously.

DELIBERATIVE SESSION:

Case #2019-21 John Funk & Deborah Chase, owners

Ms. Hackett stated that there had been lots of information.

Mr. Teunessen was concerned about testimony of a public water source.

Ms. Richards was concerned about water coming down the hill, and the existing shed not meeting setbacks.

Ms. Hackett said the property owners' use has to be considered. If someone doesn't want something next to them, they have to buy the land. A concerned citizen may have their own issues. If someone says the water is going to wreck property, substantial evidence needs to be shown.

Mr. Onion said the State rule is the septic has to be 75' from a well.

There was discussion about location of septic systems and wells and if they would fit.

Ms. Richards said that in Laconia it happens all the time that there are old water lines that get disrupted.

Mr. Teunessen said he comes from the land of small homes. There have been cases where the house is too big for the lot.

Mr. Onion said there is a value that is difficult to talk about with prices. The owner of the cape next door considers his value diminished by any house on that lot.

Ms. Hackett asked what they thought Mr. Funk should be able to do with the property.

Mr. Onion said if a property is bought there is no guarantee it can be built upon. The lot can be used for storage.

MOTION:

Mr. Onion moved to deny a variance in Case #2019-21 John Funk & Deborah Chase, owners: requesting a variance from Zoning Ordinance Article IV Table 2 to build a 14' x 20' addition into the setbacks: 13.3' side, 1.7' road & 1.4' wetland. Property is .19 acres located on Cat Alley, Map/Lot# 127/47, in the Village zone.

The granting of the variance would be contrary to the public interest because the small lot has too many water problems, and

The spirit of the Ordinance would not be observed because the village is cohesive in buildings and a building of this size would not be compatible, and

There would be a diminution of value to the surrounding properties by granting the variance because privacy would be lost to the neighbors.

Mr. Teunessen seconded.

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Ms. Hackett stated just because something is denied or approved on this property doesn't mean it would be on another property.

Motion passed unanimously.

APPROVAL OF MINUTES

MOTION: Mr. Teunessen moved to approve the minutes of the September 19, 2019 meeting as amended. Seconded by Mr. Onion. Motion passed unanimously.

MOTION: Mr. Teunessen moved to approve the minutes of the September 26, 2019 meeting as amended. Seconded by Mr. Onion. Motion passed unanimously.

OTHER BUSINESS

Staff presented the Muccio's building application drawing, and asked if the Board felt it met the conditions the ZBA set in the property's variance. It was the consensus of the Board that no steps from the deck to the water had been presented, and would not be allowed without a new variance.

ADJOURNMENT: Meeting adjourned at 9:45 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator