

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Chair Elizabeth Hackett called the meeting to order at 7:04 PM.

Members attending: Elizabeth Hackett, Nate Abbott, Perry Onion, Mike Teunessen.

Members not attending: Zannah Richards and alternate member Leslie Smith

Also in attendance: Annette Andreozzi, Land Use Administrator

Welcome to the Gilmanton Zoning Board of Adjustment. I am Betty Hackett. As Chair of the Board, due to the COVID-19 crisis and in accordance with RSA 91-A:2, III (b), Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. I find that this meeting is imperative to the continued operation of town government, and vital to public safety & confidence during this emergency. As such, this meeting may be conducted without a quorum or all of this body physically present in the same location.

Please note that this is to confirm that:

- a) We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting, and the public has access to contemporaneously listen and, if necessary, participate in this meeting.
- b) We previously gave notice to the public of how to access the meeting using Zoom, with instructions provided on the Town of Gilmanton's website at: [www.gilmantonnh.org](http://www.gilmantonnh.org).
- c) If anybody has an access problem, please call 603-267-6700 ext.116.
- d) In the event the public is unable to access the meeting, we will adjourn the meeting rescheduling it at that time.

At this time, I welcome members of the public in person & accessing this meeting remotely. Even though this meeting is being conducted in a unique manner, the rules of conduct & decorum apply. Any person found to be disrupting the meeting will be removed if they continue after being asked to cease the disruption.

Any person wishing to speak shall address me, the chair, to get permission. Please identify yourself clearly before speaking. Please have your device on mute when you are not speaking.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their presence, also please state whether there is anyone in the room with you

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

during this meeting, which is required under the Right-to-Know law.

Betty Hackett, chair – in room  
Nate Abbott, vice chair- in room  
Perry Onion - in room  
Mike Teunessen – in room  
Leslie Smith, alternate - not in attendance  
Zannah Richards – not in attendance

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 # 2020-11 Bear Investments LLC, owner, Gary Anderson, applicant:** requests a special exception as in the Zoning Ordinance Article IV Table 1, provided in Article IX-B to use the property for Gravel/Fill/Loam/Stone Removal and Treated Soils. Property is 42 acres located at 313 NH Route 106, Map/Lot# 412/022 in the Business zone.

Mr. Anderson wished to drop the treated soils part of the request, because he hasn't been able to get the answers requested by ZBA. He delivered a new site plan.

Mr. Abbott asked about the area for the soil removal.

Mr. Anderson said it was the area at bottom right corner & the rectangle on the plan.

Mr. Abbott asked if he was withdrawing his case.

Mr. Anderson said no, just withdrawing the treated soils part.

Mr. Teunessen said there was not much elevation difference from Route 106 to the wetlands. He was concerned about going into wetlands.

Mr. Anderson said he didn't want to go into wetlands.

Mr. Abbott stated there was a need to continue the hearing because there was no drawing and no language for a dig place. He felt that the ZBA approval for the solar farm was that it is was not visible from the road. He couldn't think of an objection, and it is far from the road.

Ms. Hackett wanted a copy of the ZBA solar approval for the next meeting.

Mr. Abbott stated that reflected sunlight can cause driving problems.

**MOTION**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**Mr. Teunessen move to continue Case # 2020-11 Bear Investments LLC, owner, Gary Anderson, applicant to the next meeting, May 20 at 7PM.**

Second by Mr. Abbott.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Continued Public Hearing Case # 2020-12 Bear Investments LLC, owner, Gary Anderson, applicant:** requests a variance from Zoning Ordinance Article III-F-6 & 7 to allow a Billboard, and from Article IV Table 2 to locate it in the road setback. Property is 42 acres located at 313 NH Route 106, Map/Lot# 412/022 in the Business zone.

Ms. Hackett said she had asked for the billboard area to be marked in the field. As of yesterday, it wasn't done. She said it is closer to the road setback.

Mr. Abbott said the billboard would be 90 degrees from road with an elevation above the road. He asked the height to the bottom of the sign from the road.

Mr. Anderson said the bottom of the sign would be 6' above ground, and it will be a permanent fixture on the lot.

**MOTION**

**Mr. Teunessen moved to close Public Hearing Case # 2020-12 Bear Investments LLC, owner, Gary Anderson, applicant.**

Second by Mr. Abbott.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Public Hearing Case # 2021-05 Richard Church, applicant, Kara & Scott Richardson, owners:** request a variance from Zoning Ordinance Article IV, Table 2 for an after-the-fact variance for a deck built inside the side setback. Property is .14 acres located at 30 Aspen Avenue, Map/Lot# 118-028 in the Residential Lake zone.

Mr. Church said he closed on the property April 6, 2021. He found out when

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

he made an offer that the deck had not been permitted, but he said it was grandfathered.

Ms. Hackett said the application was for an after-the-fact variance for building in the setback without a building permit. Nothing is grandfathered. She added up the measurements and found that it was not possible to have a 20' setback on each side of the house.

Mr. Church said the deck looks to be 5-6 feet from his property line. There is no property survey. He would like to keep the deck as is, but it needs maintenance.

Ms. Hackett asked if he had any objection to the ZBA condition that the deck is never enclosed.

Mr. Church said no.

Mr. Abbott asked if there was a house on Mallard, because it didn't look like there would be a possible building on the lot adjacent, which extends to Mallard.

Mr. Onion didn't think it was possible to build there due to down and up terrain.

Ms. Hackett said the building inspector said a railing was necessary, but he could not check the deck's connection to the house. She reminded the applicant that anything built needs a permit. She knows that the problem with the deck was inherited.

Ms. Vincent, abutter, had no objection to the deck.

**MOTION**

**Mr. Abbott moved to close Public Hearing Case # 2020-05 Richard Church, applicant, Kara & Scott Richardson, owners.**

Seconded by Mr. Teunessen.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Public Hearing Case # 2021-06 Peter & Leslie Leahy, owner:** request a variance from Zoning Ordinance Article IV, Table 2 & Article III-P to allow rebuilding & enlarging a house inside the lake setback with two other houses located on the lot. Property is .97 acres at 8 Pickerel Point, Map/Lot# 104-008 in the Rural zone.

The Leahys gave permission for Mr. Varney to act on their behalf.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Mr. Varney said the property has been in the owners' family for 83 years and they wish to reconstruct one house. They will put in a septic. The new building will conform to code, but be larger. A survey was done and architectural drawings. The first of the three houses on the lot, as one looks from the road, was built in 1970's. The Leahys are asking for a small addition to the road side of the middle house. There will also be a dormer to make more living space. Storm water run-off will be handled, and the septic upgraded. He said there is a non-approved septic in the upper left of the lot. Ms. Hackett asked the size of the dormer.

Mr. Varney said it will be a small dormer to accommodate 3 bedrooms.

Ms. Hackett asked if the building was going to be demolished.

Mr. Varney said all walls are staying with new windows, and they are adding on the second story.

Staff indicated that the existing walls may not support a second level.

Ms. Hackett said the present ordinance doesn't allow 3 houses on a lot.

Mr. Leahy said the lot has been in his family 83 years. The building they want to expand is the original cottage. They will modernize the original cottage, and reconstruct the exterior walls.

Ms. Hackett asked how many seasons they plan to use it.

Mr. Leahy said it would be a modernized 4-season house.

Mr. Onion said the map shows a 4th building called a house.

Mr. Leahy said he called it a shed, which could not be used as a house.

Mr. Teunessen asked about the septic listed on the plan.

Mr. Onion asked to be told about the 1<sup>st</sup> septic.

Mr. Varney said it is old and unknown.

Staff clarified that there are no NH DES approved septic systems on the lot. If there is a septic tied to the 1970's house, it will be at least 45 years old.

Mr. Varney said the new septic will be for house 2 and 3 not 1.

Mr. Onion asked if they ignore the septic that is supposed to exist for house 1, how will the new septic affect the possibility of needing to install a septic for house 1, if no acceptable evidence of its existence can be presented.

Mr. Varney said they will see after the current design is done.

Mr. Onion said he would like to make a condition for a septic for house 1. The object of his condition would be all 3 cottages are included in the septic design.

Mr. Abbott said improving a building in a similar footprint on a nonconforming lot; sounds like the applicant will invest in the property and the septic.

Mr. Varney said the variance was to expand house 2, and they would improve the septic and storm water management.

Mr. Abbott said the Board needs to find a set of criteria. No bedrooms can be added, just living space to house 2, and it can be winterized to use year-round, and modernized. Run-off needs to be slowed, and the lake protected.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Mr. Onion asked where the water would go.  
Mr. Varney said into the ground.  
Mrs. Leahy said they were improving the property. Updating the old systems. Adding a new well. No longer taking water from the lake.  
Mr. Quigley, abutter, approved of what they were doing, and said they care about lake. It will be better off with change.  
Ms. Hackett read 2 emails of support, one from the Quigleys and one from Mr. Joyce.  
Staff asked for a clarification about what reconstructing the walls meant.  
Mr. Leahy said they didn't know if they could keep walls, but they plan to keep what they could.

**MOTION**

**Mr. Abbott moved to close Public Hearing Case # 2020-06 Peter & Leslie Leahy, owner.**

Second by Mr. Onion.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Public Hearing Case # 2021-07 Richard MacDonald, owner:** requests a variance from Zoning Ordinance Article IV, Table 2 to build a house addition in the road setback. Property is 6.17 acres located at 41 Durrell Mountain Road, Map/Lot# 403-009 in the Rural zone.

Mr. MacDonald's current home was built in 1840, addition in 1990. He fell off the deck, and it became clear that the entrance hall was too narrow for emergency services. He would like to make an addition on the street side for easy emergency access. Original house had a front door down a narrow hallway but it was taken out. He would like an addition that is in line with the house, so entrance can be from the street.

Ms. Hackett said the addition equals the distance out to the chimney that sticks out from the structure. Not looking to enclose porch.

Mr. MacDonald said the farmer's porch would be 7" off the ground with no railings.

Mr. Abbott said the request didn't seem unreasonable after looking at the property.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**MOTION**

**Mr. Teunessen moved to close Public Hearing Case # 2020-07 Richard MacDonald, owner.**

Second by Mr. Onion

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**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 said the application is difficult. The property was a 2015 case.

**MOTION**

**Mr. Abbott moved to continue Public Hearing Case # 2020--08 Spaulding, Matt, applicant, Douglas Monson, owner, till the next meeting on May 20, 2021, at 7PM with more detailed info.**  
**Mr. Onion seconded.**

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**DELIBERATIVE SESSION:**

**Case # 2020-12 Bear Investments LLC, owner, Gary Anderson, applicant**

**MOTION**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**Mr. Abbott moved to grant a variance in Case # 2020-12 Bear Investments LLC, owner, Gary Anderson, applicant: requesting a variance from Zoning Ordinance Article III-F-6 & 7 to allow a Billboard, and from Article IV Table 2 to locate in the road setback in the area as marked on the map submitted. Property is 42 acres located at 313 NH Route 106, Map/Lot# 412/022 in the Business 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 due to NHDOT's approval of specific siting location;**
  - b. The spirit of the Ordinance is observed because the essential character of the neighborhood will not be altered, as there are a few other billboards in the areas & no houses nearby;**
  - c. By the granting of the variance substantial justice will be done because the property will be developed with higher use, being on a well trafficked state road;**
  - 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 property across the road is mostly wetlands & unlikely to be developed, 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 ordinance was meant to keep billboard clutter out of the rural area,**
- AND**
- ii. the proposed use is a reasonable one because the property is in the business zone and will not create billboard clutter.**

**CONDITIONS:**

- 1. There shall be no other billboards on the property.**
- 2. There may be only one freestanding business sign.**

Mr. Teunessen seconded.

Nate Abbott-yes

Betty Hackett -yes

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Case # 2021-05 Richard Church, applicant, Kara & Scott Richardson, owners**

**Mr. Teunessen move to grant a variance in Case #2021-05 Richard Church, applicant, & now owner: request a variance from Zoning Ordinance Article IV, Table 2 for an after-the-fact variance for a 15' x 16' deck built inside the side setback. Property is .14 acres located at 30 Aspen Avenue, Map/Lot# 118-028 in the Residential 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 it will allow property owners better use of the home;**
  - 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 that there is a steep downhill slope making it unlikely any other structures will be built near, 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 there are other homes in this area with decks attached to them,**
- AND**
- ii. the proposed use is a reasonable one because it will allow another egress to his house.**

**CONDITIONS:**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

1. This deck may be maintained, but no structural elements are to be replaced.
2. When replaced the deck shall be at least 10' from the property line & no longer than 16 feet.
3. Deck never to be enclosed or used as living space.
4. There shall be no additional intrusion in any setback.

Mr. Abbott seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Case # 2021-06 Peter & Leslie Leahy, owner**

**Mr. Abbott moved to reopen the public hearing.**

Mr. Teunessen seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

Discussion about egress on the road side.

Mr. Leahy said the door in the addition would only have one step to get out.

**Mr. Abbott moved to close the public hearing.**

Mr. Teunessen seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Mr. Abbott move to grant a variance in Case #2021--06 Peter & Leslie Leahy, owner:**  
request a variance from Zoning Ordinance Article IV, Table 2 & Article III-P to allow  
rebuilding & enlarging a house inside the lake setback with two other houses located on the lot.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

Property is .97 acres at 8 Pickerel Point, Map/Lot# 104-008 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, & use of the property will not be altered;
  - c. By the granting of the variance substantial justice will be done because the property owner will invest in the property, lessening the environmental impact of the residence on the lake;
  - 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 has been a multi structure family resort for decades, uniquely situated on Crystal 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 the use of this property is a long-fixed aspect of the community in which its situated,
- AND
- ii. the proposed use is a reasonable one because the family will be able to continue to use the property in the same way they have for many years with lighter environmental impact on the lake.

**CONDITIONS:**

1. Storm water run-off provisions shall be certified effective & complete by a certified professional in stormwater management.
2. No additional construction or additions shall be allowed on the lot.
3. House shall be no larger than 26' x 40' with a 7' x 15' addition on the side away from the lake, and a 6' x 32' open porch, lakeside.
4. Porch never to be enclosed or used as living space.
5. Lakeside porch steps shall be minimum depth to meet code.
6. Secondary egress in the new addition away from the lake will have one step.

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

**7. The applicant's septic plan submission to NH DES must include all 3 houses.**

Mr. Teunessen seconded.

Mr. Teunessen said he didn't want to put the applicant in a position to have to connect all the houses to a septic system to get state approval.

Mr. Abbott said that every decision affects the entire property. The applicant has said they will go to the state to get a septic system or systems that cover all the houses.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**Case # 2021-07 Richard MacDonald, owner**

Ms. Hackett said that when she first looked at the application, she thought there was lots of room to put an addition not in the setback. Then she looked at the reason, being able to get in a door.

**MOTION**

**Mr. Teunessen move to grant a variance in Case #2021-07 Richard MacDonald, owner: requests a variance from Zoning Ordinance Article IV, Table 2 to build a 22' x 35' addition to the front of the house in the road setback, as presented in the application. Property is 6.17 acres located at 41 Durrell Mountain Road, Map/Lot# 403-009 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 a safe entrance will be added to the front of the house;**
- 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;**

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

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 that the original house was built in 1840 too close to the road for modern vehicles, 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 new construction will be no closer to the road than the chimney of the original house currently is,

**AND**

ii. the proposed use is a reasonable one because a safe egress will be provided on the front of the house.

**CONDITIONS:**

1. The porch shall not be enclosed or used for living space.
2. Any steps toward the road shall be the minimum depth required by code.
3. There shall be no additional intrusion in any setback.

Mr. Onion seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

**Motion passed unanimously.**

**OTHER BUSINESS**

Staff brought up time limit on conditions.

**APPROVAL OF MINUTES** –March 18, 2021, meeting

Consensus of the Board was to hold the minutes until the next meeting.

APPROVED

**TOWN OF GILMANTON**  
**ZONING BOARD OF ADJUSTMENT**  
**THURSDAY APRIL 15, 2021 – 7 PM.**  
**ACADEMY BUILDING**  
**MINUTES**

ADJOURNMENT: Meeting adjourned at 9:35PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator