

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY FEBRUARY 18, 2021 – 7 PM.
ACADEMY BUILDING
MINUTES

Chair Elizabeth Hackett called the meeting to order at 7:07 PM.

Members attending: Elizabeth Hackett, Nate Abbott, Perry Onion

Members not attending: Zannah Richards, Mike Teunessen, 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.
- 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

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presence, also please state whether there is anyone in the room with you 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- remote
Zannah Richards- absent
Mike Teunessen- absent
Leslie Smith, alternate – absent

The Chair explained the ZBA procedures. Three positive votes would be needed for any decision to pass.

NEW BUSINESS

Public Hearing Case #2021-03 Michael Littlefield, owner: requests a variance from Zoning Ordinance Article VII-C-1a to build on a lot with no class V or better frontage. Property is 6.1 acres located on River Rd., Map/Lot #116/009, in the Rural Zone.

Mr. Littlefield wished to continue. He said the road does not have a new name yet, so he doesn't have an address yet.

Ms. Hackett noted the picture of the anticipated house. She had looked at the property today. She had an issue with not knowing where the house will be located.

Mr. Littlefield said it would sit on the hill that goes up.

Ms. Hackett had concerns about this type of road for emergency vehicles. The road will need a turnaround at the end. She suggested the owner talk to the fire & police chiefs about access.

Mr. Abbott said the stone wall is the northeast property line and there are more woods that go off. He asked who had done work on the road.

Mr. Littlefield said he had equipment and had done work on the road. He said he had not talked to BOS about a road agreement.

Mr. Abbott said the more the road is graded the better.

Ms. Hackett stated that the code enforcement officer had requested a survey of properties with concerns about setbacks, needing pins to show the property lines. Buildings have to be 35' from the property line at a road.

Mr. Littlefield said his property is surrounded by stone walls.

Mr. Abbott said a survey suitable to define the boundaries for just the road would be more cost effective if that was possible.

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Mr. Abbott moved to close Public Hearing Case #2021-03 Michael Littlefield, owner.

Seconded by Mr. Onion.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously.

Public Hearing Case #2021-04 Daniel Lopolito & Rebecca Albright, owners:

requests a variance from Zoning Ordinance Article VII-C-3a to build a new garage within the lake setback. Property is 3 acres located at 79 Levitt Rd., Map/Lot #406/049, in the Conservation Zone.

The owners said they wanted to continue tonight.

Ms. Albright said they have an existing garage built in the 1980's which is non-conforming. They want to replace it in the same spot but a little bigger.

In looking at the plan provided, Ms. Hackett was not sure what was new and what was existing.

Mr. Lopolito said the new space would be 2 pieces - 6' x 24' added to the garage, and an enclosed 12' x 28' lean-to. The total building would be 30' x 36'.

Ms. Hackett said the existing garage is 24' x 24'. The new addition would add 6' which would make the garage 30' x 24' with an additional 12' x 28'.

Mr. Abbott asked why the garage needed to be larger & in the same location.

Mr. Lopolito said there was nowhere else to put it based on the location of the house, and where there was clear space. It needs to be bigger because he can't get the boat in, and he wants a small workshop on the lean-to side.

Mr. Onion said the garage was going to be knocked down. He wanted to know if they were using the same foundation.

Mr. Lopolito said no, but he couldn't move the location because he would not be able to get the boat between the buildings to take it to the lake.

Mr. Onion said if the garage was moved there will be more space between buildings.

Ms. Albright said that what the map doesn't show is an extension that was made to the house entrance.

Mr. Abbott said he could see the extension in the photo. He wasn't sure that there was a hardship in the property that prevented the garage from being in an alternate place. He felt a variance couldn't be granted, if it said it was impossible to put the garage somewhere else.

Mr. Lopolito said the extension was not going any further toward the lake. He could move the garage 2'.

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Ms. Hackett asked about the use on the second level.
Mr. Lopolito said it would be storage & workout space.
Mr. Abbott said he would be willing to continue the application if the applicants would be willing to work on moving the building.
The applicants agreed.

MOTION

Mr. Abbott moved to continue Public Hearing Case #2021-04 Daniel Lopolito & Rebecca Albright, owners until March 18, 2021 at 7:00PM.

Second by Mr. Onion.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously.

DELIBERATIVE SESSION:

Information was supplied from staff that the building inspector felt that the Board should require a surveyor to pin lot lines and/or placement of buildings, as part of the conditions, so there can be verification that the ZBA's approval & conditions will be met. He does not feel that is something he can verify.

Public Hearing Case #2021-03 Michael Littlefield, owner

Mr. Onion stated that at the last meeting someone wanted to build on a class 6 road, and Ms. Thorne made comments against building on any class 6 road. He didn't agree with Ms. Thorne related to the application last month because that property was in the middle of existing development. The Ordinance, approved by vote of the people, says there should be no building on a class 6 road. The people could vote to change the ordinance. He didn't think it was the right way to plan the town by letting people build in areas where it is premature & scattered development.

Ms. Hackett said there are 2 houses on the road before lot 9.

Staff indicated that technically the 2 houses referenced are on the class 5 part of River Road.

Mr. Onion asked, if the variance was granted, what is to stop the other lots down the way from piggy backing on and building further on undeveloped road.

Mr. Abbott said that beyond lot 9 is not much of a road and would be difficult to access. When the ZBA looks at a lot like #9, they need to think if it is premature & scattered development.

Ms. Hackett said that if she hadn't seen another house nearby, she would feel more like

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Mr. Onion. Where lot #9 ends she saw nothing but trees.

MOTION

Mr. Abbott moved to grant a variance in Case #2021-03 Michael Littlefield, owner: requesting a variance from Zoning Ordinance Article VII-C-1a to build on a lot with no class V or better frontage. Property is 6.1 acres located on River Rd., Map/Lot #116/009, 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 the owner will be able to establish a residence, and use his property on a lot that contains ample acreage for that use;
 - 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 rests at the end of a residential class 6 road, abutting 2 properties with residences, 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 this property is nearly as accessible as the neighboring properties that contain residences,
- AND**
- ii. the proposed use is a reasonable one because the property is located close to the Ironworks Village and to Elm Street, a main town thoroughfare.

CONDITIONS:

1. A surveyor shall mark & certify the property line adjacent to the private road, so it is clear where the 35' road setback is located, and no buildings are put in the setbacks.

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2. A private road agreement with the BOS must be recorded at the county registry of deeds.
3. The private road adjacent to the property shall get a different name, confirmed with the town, not similar to River Street, and that road will be registered with the 911 safety system.
4. The private road shall be kept clear for a width of at least 20 feet.
5. At the direction of the town road agent, and safety service personnel, a sufficient turnout shall be provided on the road, and maintained.

Mr. Onion seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously

APPROVAL OF MINUTES –January 21, 2021, meeting

MOTION: Mr. Onion moved to approve the minutes of the January 21, 2021, meeting as corrected.

Seconded by Mr. Abbott.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously

OTHER BUSINESS

Mr. Campbell, property m/l # 111-007, 309 Crystal Lake Road, cannot pass the building code inspection because he built an indoor space before getting a variance from ZBA or a building permit. The variance required him to turn the space into an outdoor type space (porch). He wants the ZBA to eliminate the condition of removing the windows.

There was a discussion related to the written report provided by the building inspector. Ms. Hackett was not in favor of releasing the conditions the ZBA placed on the property when granting the variance. She felt that if a variance had been applied for before construction was done there would not be a problem.

Mr. Onion said the ZBA made a decision. The applicant is trying to get around it.

Mr. Abbott stated that the applicant had a chance to go to district court, or make a new plan. He has not.

The consensus of the ZBA was that the decision in case #2020-14 should stand as is.

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Ms. Hackett stated that the Selectmen requested all board members to meet with them at their March 1st meeting to inform them on the goals of the Board. She felt that the BOS didn't understand that the ZBA members could not meet without a specific notification.

Ms. Hackett said, as chair, she could meet to inform them the goal of the ZBA is to meet applicants and make decisions.

Mr. Abbott & Mr. Onion agreed that only Ms. Hackett should go to the meeting, and send a note to the assistant town administrator to let her know.

MOTION: Mr. Abbott moved to approve the minutes of the January 21, 2021, meeting as amended.

Seconded by Mr. Onion.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously

VOTE ON AMENDMENTS OF ZBA RULES OF PROCEDURE

MOTION

Mr. Abbott moved to accept the ZBA Rules of Procedure as amended for publication and proposal to adopt.

Seconded by Ms. Hackett.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Motion passed unanimously

ADJOURNMENT: Meeting adjourned at 8:45 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator