

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

Chair Elizabeth Hackett called the meeting to order at 7:30 PM.

Members attending: Elizabeth Hackett, Nate Abbott, Perry Onion, Mike Teunessen, and alternate member, Leslie Smith.

Members not attending: Zannah Richards

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

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their 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
Mike Teunessen – in room
Leslie Smith, alternate - remote
Zannah Richards – not in attendance

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

Ms. Smith was seated as a voting member.

OLD BUSINESS

Continued 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.

Ms. Hackett said the applicants had supplied more information that they would move the garage 5' to be out of the 50' state setback.

Mr. Lopolito said he spoke with contractors & the septic people. There would be no problem moving the garage 5 feet. If he moved it to be out of the 75' town setback he would have to put it into the leach field.

Ms. Smith asked if they were enlarging the current building.

Staff indicated they were taking down the current building & building a new garage, a little bigger than the current one.

Ms. Hackett said the additional space will be an enclosed lean-to.

MOTION

Mr. Abbott moved to close Public Hearing Case #2021-04 Daniel Lopolito &Rebecca Albright, owners.

Second by Mr. Teunessen.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

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Leslie Smith - yes

Motion passed unanimously.

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.

Ms. Hackett asked Mr. Anderson to refresh the ZBA's memory on his applications.

Mr. Anderson said the areas for removal are identified on the submitted plan.

Ms. Hackett asked about the area the solar panels were to be installed, if that was the area seen from the road where trees have been taken down, because there is a 100' right of way for the state highway. She said there were 2 different scales on plan submitted and that needs to be corrected.

Mr. Abbott said it was reasonable for the application to be continue, so the applicant could be in the room. He wanted to know if there were new areas to be extracted.

Mr. Anderson said there is more fill on the property than was expected.

Mr. Abbott asked if the applicant wanted to continue both of his hearings.

Mr. Anderson asked about a change to case # 2020-13's conditions.

Ms. Hackett said he should get the information to the staff, who will get it to the members so they can comment. She wants Mr. Anderson to flag the property where the billboard will be. She reminded him of the 100' right of way and that there were buried cables there.

Mr. Anderson said he would stake out the billboard placement before the next meeting. It is near where the driveway is going in now.

MOTION

Mr. Abbott moved to continue Public Hearing Case # 2020-11 & 2020-12 Bear Investments LLC, owner, Gary Anderson, applicant, to the next meeting on April 15, 2021 at 7PM.

Second by Mr. Teunessen.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

Leslie Smith - yes

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DELIBERATIVE SESSION:

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

MOTION

Mr. Abbott moved to grant a variance in Case #2021-04 Daniel Lopolito & Rebecca Albright, owners: requesting 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.

- 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 an existing non-conforming garage will be rebuilt and made less non-conforming;
- 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, because the structure already exists in the setback, 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 enforcement of this ordinance would not improve any aspect of the district or any other property,

AND

- ii. the proposed use is a reasonable one because the use will be the same as has been customary on this property with a better facility and further from the lake.

CONDITIONS:

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1. **A surveyor shall mark and certify the corners closest to the lake to verify the building is at least 50' from the high-water mark of the lake.**
2. **A Shoreland notification permit shall be received.**
3. **Provisions to keep runoff from going into the lake shall be certified by a wetland scientist.**
4. **An as-built septic and site plan shall be submitted to the town.**
5. **The overall dimensions shall be no larger than: garage - 24' x 30', enclosed lean-to – 12' x 28'.**

Mr. Teunessen seconded.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

Leslie Smith, alternate - yes

Motion passed unanimously.

OTHER BUSINESS

Discussion with town administrator & building inspector about process moving forward

Ms. Hackett said that Mr. Cusson & Ms. Carpenter were in attendance to talk about procedures with the ZBA.

Ms. Carpenter said that there is an overlap in building with the ZBA. The after-the-fact applications are problematic. She would like the building inspector to give his opinion of the structure before the ZBA makes a decision.

Mr. Abbott said, as a former selectman, that it would be a good procedure if the ZBA would receive a report from the building inspector.

Ms. Hackett said the Board gets a staff report. The inspector could add information to it.

Mr. Cusson said there seems to be a large number of after-the- fact applications. He didn't know how he could inspect a 20 year old project. The code is different.

Mr. Teunessen asked which code would apply.

Mr. Cusson said he can't apply any code because he can't see behind the walls.

Ms. Hackett stated that the reason the after-the-facts come up is because someone has inquired about a property, and in the inquiry the staff finds there are structures that never had a building permit.

Mr. Cusson wanted to know how far back the ZBA wanted to reach for something that was built and not permitted.

Mr. Abbott said he was hearing that it isn't so common in other towns to have after-

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the-fact applications.

Mr. Cusson said he couldn't say about other than the towns he has worked in. Gilmanton might do a better job of finding them.

Mr. Abbott said in his experience the overall government in Gilmanton isn't proactive. Action only happens if there is a complaint. It is no one's job to report, and there is no process to review the assessor's report.

Ms. Hackett said the ZBA can say the structures has to be taken down or brought up to ZBA standards.

Mr. Cusson said he would do an inspection before the ZBA meeting.

Mr. Abbott suggested that Ms. Carpenter take it to the BOS to make a policy. And the ZBA's policy could be to require a report from the building inspector.

There was a discussion about the order of the report and the application. The policy should require a fee for the inspection & a written report.

Ms. Hackett said she would like to know from BOS when the policy is done. On another note, there are political signs that should have come down after the elections.

Mr. Cusson said that wetland scientists are not needed to certify stormwater management. There are certified professionals in stormwater management.

APPROVAL OF MINUTES –February 18, 2021, meeting

MOTION: Mr. Abbott moved to approve the minutes of the February 18, 2021, meeting as amended.

Seconded by Mr. Teunessen.

Nate Abbott-yes

Betty Hackett -yes

Perry Onion- yes

Mike Teunessen - yes

Leslie Smith - yes

Motion passed unanimously

ADJOURNMENT: Meeting adjourned at 8:45 PM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator