<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

Chair Elizabeth Hackett called the meeting to order at 7:01 PM. Members attending: Elizabeth Hackett, Nate Abbott, Perry Onion, Mike Teunessen, Zannah Richards (alternate member) Member not attending: Leslie Smith 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. Please be concise. She appointed Ms. Richards as a voting member for the meeting.

OLD BUSINESS

Continued Public Hearing Case # 2021-18 Jillian Parker & Timothy

Hanna, applicant owners: requests a variance from Zoning Ordinance Article VII, Section C-1a to build a SFD on a class 6 road. Property is 3 acres located on Sawtooth Rd., Map/Lot# 410/025, in the Rural zone.

Ms. Hackett stated that the property starts about 200' beyond the end of the class 5 road.

Mr. Hanna stated the Board was going to seek legal counsel.

Ms. Hackett said that in a copy of minutes of the March 1978 town report was Article 50, which closed a list of roads to gates & bars, including the section in front of their property.

Mr. Hanna asked if that meant his land was land locked.

Mr. Abbott said he didn't know. The town has a responsibility to see that transportation is available, including safety. That 'road' narrows and rises.

The town has subdivision planning to adopt roads, which didn't happen in this case. A single variance can't accomplish a planning goal.

Mr. Hanna said he was more than willing to widen the road for emergency vehicles toward his property & sign a class 6 road waiver.

Ms. Hackett stated that gates & bars would have to be removed first.

Mr. Grey asked why a variance was needed.

Ms. Hackett said because of Zoning Article VII, building on a class 6 road.

Mr. Onion said the applicant could go to planning and ask them to create a warrant article to remove the gates & bars.

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

MOTION

Mr. Abbott moved to continue P<u>ublic Hearing Case # 2020-18 Jillian Parker &</u> <u>Timothy Hanna, applicant owners, to the November 18, 2021, ZBA meeting at</u> **7PM.** Second by Mr. Onion

Motion passed unanimously.

NEW BUSINESS

Public Hearing Case # 2021-23 Claude Vezina & Karen Cassin, owners: requests an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 15' x 14' 2-story shed in the rear setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

Ms. Hackett stated that the applicant has been before the Board in the past with this property.

Staff noted to the Board that there were reports from the building inspector & road agent. There are a total of 6 structures on the property, none of which meet the setbacks.

Ms. Cassin said the silver shelter is where the snowmobiles are kept. The membrane structures on the property were hit by branches, which is why the structures were built over them. They live in the home year-round, with no basement or attic. The bedroom is in the basement.

Ms. Hackett said there may be land for structures, but the setbacks have to be met. A building permit is needed to build any structure. One of the purposes of the Zoning Ordinance is to maintain emergency access. All of the building variances being requested are for buildings already built without building permits. The house and the blue building had permission, none of the others do.

Mr. Abbott confirmed that the entire tall wood building has no second level and is for snowmobiles.

Mr. DeBella said that when he looks at this property, he has seen that there is continuing building. The property is a mess. The rules have been ignored. It is going to devalue the neighborhood. If one building has a fire, they are so close they will all catch, and spread to other properties.

Mr. Jean asked about Shoreland.

Ms. Hackett said the property was not on the water

MOTION Mr. Onion moved to close <u>Public Hearing Case # 2021-23 Claude Vezina & Karen</u> <u>Cassin, owners.</u> Second by Mr. Teunessen Motion passed unanimously.

Public Hearing Case # 2021-24 Claude Vezina & Karen Cassin, owners: requests an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 21' x 14' shed in the side setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

Ms. Cassin said this shed was built on top of a membrane structure also.

Ms. Hackett said it is too close to the neighbor's property line.

Mr. Abbott said the property that is closest to the building belongs to Mr. Vayda, who the Board has no input from. It appears too close to the Vayda house.

Mr. DeBella said he understood the situation; it does not meet setback, and it is only 12' from the road. How are future people going to be protected? If the town approves this request is the town liable? What is fair is fair for everyone. Ms. Hackett read the abutters letters for the record.

MOTION

Mr. Teunessen moved to close <u>Public Hearing Case # 2021-24 Claude Vezina & Karen Cassin, owners.</u>

Mr. Onion seconded.

Motion passed unanimously.

Public Hearing Case # 2021-25 Claude Vezina & Karen Cassin, owners: requests an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 9' x 16' carport in the rear setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

Ms. Hackett read the abutters' letters for the record. She reported that the Road Agent wrote that to the southwest does not have good site distance. Ms. Cassin said it is used for her car.

Mr. Vezina said he was going to buy a new car, which he will store in the existing garage.

Ms. Hackett said the carport does not meet setbacks from the road or the side.

Mr. Vezina said it was as far from the road as possible because of the wellhead.

Ms. Hackett said there isn't enough property for all the structures.

Mr. DeBella asked how many driveways are allowed on a property. Ms. Hackett said this Board has no purview on driveways. This carport is in a dangerous position. Vegetation prevents view. There is no room on the property to relocate it.

MOTION

Mr. Abbott moved to close <u>Public Hearing Case # 2021-24 Claude Vezina & Karen</u> <u>Cassin, owners.</u> Mr. Onion seconded.

Motion passed unanimously.

Public Hearing Case # 2021-26 Elizabeth Groesser, applicant, Elizabeth & Joseph <u>Stewart, owners:</u> requests a variance from Zoning Ordinance Article VI-C to replace a mobile home with larger unit in the front & side setbacks. Property is .697 acres located at 14 Valley Shore Dr. Map/Lot# 130/067, in the Rural zone.

Ms. Groesser is interested in buying the property, and replacing the mobile home with one already purchased.

Ms. Hackett said the current one is close to the road. She asked if the request was to place the new one in the same place.

Ms. Groesser said she could move it back.

Ms. Hackett said it is currently about one inch from the property line. The new trailer* is a 3-bedroom. The requirements for building a house in Gilmanton are stricter than the state requirements for a trailer*.

Ms. Groesser said the trailer* would meet town standards for a stick built house.

Ms. Richards said the plan showed putting a 3-bedroom trailer* with a DES septic approval for 2 bedrooms.

Ms. Groesser said she would use one bedroom as an office.

Bill Shore said that where the dwelling should be located is on the septic plan. Mr. DeBella said he was scaling his house back to be able to fit the septic

design. If someone else buys the property in this case, that office will be used as the bedroom, which it was designed as.

Mr. Jean said there is no showing of a power supply. The power pole is on his property. There is no easement.

Ms. Hackett stated that utility poles are not the purview of the ZBA.

Mr. Jean said the trailer was a sales office that was supposed to be moved off the property, but never was.

Ms. Hackett asked if the new trailer* will meet the setbacks.

Ms. Groesser said it will be on a slab and meet the building code for built

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

houses and the setbacks.

*The term "trailer" was utilized during the meeting but it should be noted, the new home will be a manufactured home.

MOTION

Mr. Teunessen moved to close <u>Public Hearing Case # 2021-26 Elizabeth Groesser</u>, <u>applicant, Elizabeth & Joseph Stewart, owners</u>. Second by Mr. Onion Motion passed unanimously.

Public Hearing Case # 2021-27 Theron Debella, owner: requests a variance from Zoning Ordinance Article IV Table 1 & Article VII-C4 to put an accessory on a non-conforming lot with no primary building on a class 6 road. Property is .14 acres located on Montauk Way Map/Lot# 131/052, in the Rural zone.

Mr. DeBella said Montauk Way was an undeveloped way. He is going to close on lot 51 on Monday. The only house on the Way will be his. The Association said to him if he wanted access to his property, he could improve Montauk Way. He was planning a log cabin home from Merrimack Homes. He is in the process of surveying his property. The shed sits on rock. The septic design for his house is in the works. He cleared the land. He said he finds stuff left on the property when he is not there. He was concerned that they would steal his personal property. He said he should be able to have a shed if he is building a house.

Ms. Hackett stated that to be an accessory building there needs to be a primary building. There are no other buildings on the lot, and no others can fit. You say you want to store equipment in order to build a house, but the ZBA has no documentation saying that.

Mr. DeBella said Lot 52 and 53 will be merged after he has a building permit. He will remove the shed if he can't build a house.

Ms. Hackett said the fact is that the applicant has another lot on this class 6 road that needs a variance to build upon.

Mr. DeBella said to give him a timetable. If need be, he will merge all 3 lots. Mr. Teunessen said there is probably wetland or a ledge on the property.

Mr. DeBella said he could still have a septic, but it may be more expensive. Mr. Abbott felt the applicant was putting the cart before the horse. He wants a shed before he has a house. If the house isn't built, the shed needs to be taken away. There needs to be a time limit on the conditions.

Mr. DeBella said he would have everything done in 24 months.

Mr. Abbott said the spirit of the ordinance is that people can't build sheds, which are used to camp or live in. There is going to be a house there, or the shed is going to go away.

Mr. DeBella said the shed was 10' tall one-story.

MOTION

Ms. Richards moved to close <u>Public Hearing Case # 2021-27 Theron Debella, owner</u>. Second by Mr. Onion Motion passed unanimously.

Public Hearing Case # 2021-28 Frank Tkacik, owner: requests a variance from Zoning Ordinance Article IV Table 2 to build a garage on the side property line. Property is .52 acres located at 267 Hemlock Dr., Map/Lot# 121-040, in the Res. Lake zone.

Bob Dow is speaking for the applicant via Mrs. Tracik. The applicant would like more room between the house and garage, which they can get if they put the garage on the boundary of the fire lane. If the garage is put 20' from the boundary it will be hard to access.

Ms. Hackett asked if the building would be a barn or garage.

Mrs. Tracik called it a barn to be used as a garage.

Mr. Dow said this garage will be used for a classic car and storage, 2 stories, 20' x 24' x 23' high. He would like to put it 4' from the tree line which is in the fire lane. Ms. Richards asked if there were boundary pins.

Mr. Dow said he found pins in the back.

Mr. Abbott said that Mr. Dow is still the road agent in Sawyer Lake District. He confirmed that in Mr. Dow's opinion there was no problem being that close to the fire lane.

Ms. Richards had concern about water coming off the lot.

Mr. Onion was concerned about trees on the berm.

Mr. Dow stated that nothing there would be touched.

Ms. Hackett read the Chmielecki's & the Faro's letter of support.

Mr. Hamel stated that there is a three-car wide driveway that makes water come into his property. Excavation will cause more water.

Mr. Dow said there is drainage there now, and water coming off the hill will go in to that drainage.

Mr. Hamel said he had a problem now. Construction would not make it better.

Mr. Dow said that where they are digging will not affect water runoff.

Ms. Richards stated that when there is paving, water is going to be shifted.

Mr. Hamel said there was a culvert put in, but someone has paved over it.

Mr. Dow said it is a large hill and this garage is not going to affect any more water. Mr. Himmelman said the water goes on to his property from the culvert. If there is building it will cause more water to come down. "The stream is on my property that they are planning to divert the water into."

Misters Hamel & Himmelman said they have no issue with the garage, if the water is taken care of.

Mrs. Tkacik said they tried to address the water that comes down the hill. It is a problem everywhere on Hemlock.

Mr. Dow said there are two levels of property off Hemlock. He spent all last year fixing roads due to heavy rains.

Mr. Hamel said if all the trees and bushes hadn't been taken out there wouldn't be as much of a problem.

MOTION

Mr. Abbott moved to close <u>Public Hearing Case # 2021-28 Frank Tkacik, owner.</u> Second by Mr. Onion.

Motion passed unanimously.

Public Hearing Case# 2021-29 Keith & Michele Russell, owners: requests a variance from Zoning Ordinance Article IV Table 2 & Article VII-C1a &b to replace a SFD on a class 6 road in the setbacks. Property is .82 acres located at 11 Wildwood Lane., Map/Lot# 104/019, in the Rural zone.

Ms. Hackett said that when the new garage is put in, a lot of trees will need to be taken down. She asked if they were aware of Shoreland requirements.
Mr. Russell explained the markings on the site plan the ZBA had in their packet.
Ms. Hackett said the plan is to tear down the existing house & put up a new one.
The new one would be 8' from the water line. The old & new house are 2-story.
Ms. Russell said that upstairs will be one bedroom, an office & vaulted from below.
Mr. Russell said the septic design has to be resubmitted because the existing design has expired. The ADU will be like a bunk house with one open bedroom space.

Ms. Russell wants to build something that is better for the lake and the people around.

Mr. Russell said the new house will be no closer to the lake than the existing house. Part of it will be further away.

Mr. Onion asked why they did not move it back from the lake?

Mr. Russell said that part of the value is the closeness to the lake of the existing legal house. The new house will be a little bit better for the lake and no worse for the neighborhood. Construction equipment will only access the lot on the

easement.

Ms. Richards asked if they considered moving the foundation back to more conform with the lake setback.

Mr. Russell said if they did that, they would impinge more on side setbacks.

MOTION

Mr. Abbott moved to close <u>Public Hearing Case # 2021-29 Keith & Michele Russell</u>, <u>owners.</u> Second by Mr. Onion. Motion passed unanimously.

DELIBERATIVE SESSION:

Case # 2021-23 Claude Vezina & Karen Cassin, owners

Ms. Hackett was concerned that there are a lot of sheds on the lot, but the main concern is where they are located. It doesn't appear conducive to the area. Ms. Richards stated that there were no permits for these buildings. Mr. Teunessen felt the rules needed to be followed.

MOTION

Mr. Teunessen moved to deny a variance in <u>Case # 2021-23 Claude Vezina &</u> <u>Karen Cassin, owners</u> requesting an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 15' x 14' 2-story shed in the rear setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

- The spirit of the Ordinance would not be observed because the essential character of the neighborhood, where usually no more than one setback is violated, will be modified by six structures, and
- Literal enforcement of the ordinance would not result in unnecessary hardship to the property owner seeking it owing to no special conditions, distinct from other properties in the area, were demonstrated and there is a fair & substantial relationship between the public purposes of the ordinance provision to allow a buffer between properties.

Ms. Richards seconded.

Motion passed unanimously.

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

Case # 2021-24 Claude Vezina & Karen Cassin, owners

Ms. Hackett stated the building was only 6" from neighbor's property.

MOTION

Mr. Teunessen moved to deny a variance in <u>Case # 2021-24 Claude Vezina & Karen Cassin</u>, <u>owners</u> requesting an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 21' x 14' shed in the side setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

The spirit of the Ordinance would not be observed because the essential character of the neighborhood, where usually no more than one setback is violated, will be modified by six structures, and

Literal enforcement of the ordinance would not result_in unnecessary hardship to the property owner seeking it owing to no special conditions, distinct from other properties in the area, were demonstrated and there is a fair & substantial relationship between the public purposes of the ordinance provision to allow a buffer between properties.

Mr. Abbott seconded. Motion passed unanimously.

Case # # 2021-25 Claude Vezina & Karen Cassin, owners

MOTION

Mr. Teunessen moved to deny a variance in <u>Case # 2021-25 Claude Vezina & Karen Cassin</u>, <u>owners:</u> requesting an after-the-fact variance from Zoning Ordinance Article VII-C3a to build a 9' x 16' carport in the road setback. Property is .37 acres located on 154 Lakeshore Dr., Map/Lot# 131/066, in the Rural zone.

The granting of the variance would be contrary to the public interest because the driveway sight distance in the southwest direction in not good, and

The spirit of the Ordinance would not be observed because the essential character of the neighborhood, where usually no more than one setback is violated, will be modified by six structures, and

Literal enforcement of the ordinance would not result in unnecessary hardship to the property owner seeking it owing to no special conditions distinct from other properties in the area were demonstrated and there is a fair & substantial relationship between the public purposes of the ordinance provision to allow a buffer between properties.

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

Mr. Onion seconded. Motion passed unanimously.

Case # 2021-26 Elizabeth Groesser, applicant, Elizabeth & Joseph Stewart, owners

Ms. Hackett was concerned that the manufactured home would not meet the 90-pound snow load needed in Gilmanton, but the applicant had assured the ZBA that it would.

MOTION

Mr. Abbott move to grant a variance in <u>Case # 2021-26 Elizabeth Groesser, applicant,</u> <u>Elizabeth & Joseph Stewart, owners:</u> requesting a variance from Zoning Ordinance Article VI-C to replace a mobile home with a larger unit that will be located to meet the setbacks. Property is .697 acres located at 14 Valley Shore Dr. Map/Lot# 130/067, 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 current manufactured home on the lot, being used as a residence, will be replaced with a better model;
- c. By the granting of the variance substantial justice will be done because the ordinance requirement to replace the manufactured home will make a more compliant home while defending the rights of the applicant;
- 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, the use of that property with an establish manufactured home has been prior to the establishing of zoning, 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 will continue as it had before with a dwelling the meets the setbacks rather than

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

be within the setbacks,

AND

ii. the proposed use is a reasonable one because this has long been an establish single family dwelling.

CONDITIONS:

- 1. There shall be no additions or expansions to the manufactured home.
- 2. The applicant will assure that the manufactured home will meet the setbacks.
- 3. The manufactured home will conform to the Zoning Ordinance, and current residential building codes, including a 90-pound snow load capacity.

Second Mr. Teunessen.

Motion passed unanimously.

Case ## 2021-27 Theron Debella, owner

Mr. Abbott moved to grant a variance in <u>Case # 2021-27 Theron Debella, owner:</u> requesting a variance from Zoning Ordinance Article IV Table 1 & Article VII-C4 to put an accessory building on a non-conforming lot with no primary building on a class 6 road. Property is .14 acres located on Montauk Way Map/Lot# 131/052, 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 building is planned to be accessory storage unit to a planned single-family dwelling;
- c. By the granting of the variance substantial justice will be done because the applicant's property can remain protected during construction of a home and the situation is permitted for a temporary period until a proper application can be made once a residence is constructed;
- 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 property is unoccupied and considerable construction is planned over a long period of months and during this period security is required for materials and equipment, 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 applicant has demonstrated that a single-family dwelling will be constructed on his property, and the duration of this period will be limited by conditions,

AND

ii. the proposed use is a reasonable one because the applicant will be applying for a residential building permit, after which a proper application can be made for the accessory building.

CONDITIONS:

- 1. There shall be no additional structures or additions on the property without first acquiring the required permit.
- 2. The shed shall not be used for living space, storage only.
- 3. The applicant shall merge map/lot # 131/052 with map/lot # 131/053 by November 18, 2021.
- 4. The applicant shall apply for a variance to build on Montauk Way, a class 6 road, by November 18, 2021.
- 5. If # 4 and # 3 are not completed, the shed shall be removed by December 31, 2021.
- 6. In any event the accessory building shall either be removed or a subsequent application for a new variance shall be made within 24 months.
- 7. If the applicant finds the deadlines in the conditions are not attainable, he may apply to the ZBA and request an extension of time from conditions #3, #4, and #5.

Second Mr. Teunessen.

Discussion if every building on a class 6 road needs to go to the Selectmen for approval.

Staff noted that the RSA states any building not on a class 5 or better road needs approval.

Ms. Hackett stated that if an extension is requested, it shall be done through the regular ZBA application, with proof of what has been done to meet the deadlines.

<u>TOWN OF GILMANTON</u> <u>ZONING BOARD OF ADJUSTMENT</u> <u>THURSDAY SEPTEMBER 16, 2021 – 7 PM.</u> <u>ACADEMY BUILDING</u> <u>MINUTES</u>

Motion passed unanimously.

Case ## 2021-28 Frank Tkacik, owner

Ms. Hackett stated that a couple of abutters talked about the rain water coming off the property onto theirs. The barn needs to be some distance from the property line. Ms. Richards said a storm water condition needs to be in the motion. If there is already a 2-car garage, is there a hardship?

There was discussion about not knowing exactly where the garage/barn would be placed, and the opportunity for better drainage.

Ms. Hackett stated there was no problem with Mr. Dow's statement. He is the one who will have to fix it as road agent.

Mr. Onion stated that it isn't a hardship, since they already have a garage.

MOTION

Ms. Richards moved to deny a variance in <u>Case # 2021-28 Frank Tkacik, owner:</u> requests a variance from Zoning Ordinance Article IV Table 2 to build a garage on the side property line. Property is .52 acres located at 267 Hemlock Dr.., Map/Lot# 121-040, in the Res. Lake zone.

- The granting of the variance would be contrary to the public interest because the construction would accelerate water over the ground and it has been demonstrated that runoff in that area is a substantial problem, and
- Literal enforcement of the ordinance would not result in unnecessary hardship to the property owner seeking it owing to the fact that no special conditions distinct from other properties in the area were demonstrated.

Mr. Abbott seconded. **Motion passed unanimously.**

Case ## 2021-29 Keith & Michele Russell, owners

Mr. Abbott said the applicants have done their homework, and made an effort to meet the goal. It is a much bigger place. He felt the destiny of property is to have a more substantial home. There is also the opportunity to have a better septic.

Mr. Abbott moved to grant a variance in <u>Case 2021-29 Keith & Michele Russell</u>, <u>owners:</u> requests a variance from Zoning Ordinance Article IV Table 2 & Article VII-C1a &b

to replace a SFD on a class 6 road in the setbacks. Property is .82 acres located at 11 Wildwood Lane., Map/Lot# 104/019, 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 character of the neighborhood will not be adversely affected;
- c. By the granting of the variance substantial justice will be done because a new septic will be added & the 90-year-old camp will be replaced with a building code compliant building with better treatment of stormwater runoff to 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, being that the odd shape of the lot gives it a large area of lake setback and the dwelling is 90 years old, 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 is an existing house on the lot with room for improvement & replacement,

AND

ii. the proposed use is a reasonable one because the lot has had a single-family dwelling on it for 90 years.

CONDITIONS:

- 1. There shall be no additional structures or additions in any setback.
- 2. Storm water run-off provisions shall be installed and certified effective & complete by a certified professional in stormwater management, within nine months from receiving a building permit, and before receiving a CO or certificate of completion.
- 3. An approved permit of notification from Shoreland shall be filed in the town office.

4. A DES approved septic system scaled for the final design of the dwelling and ADU shall be installed.

Second by Mr. Onion.

Ms. Richards said she struggled so much with this property. A consideration of pulling the house back should have been done. Now there will be a huge home 8' from the lake. Gilmanton made their setback an extra 25' in additional to the state's from the lake.

Ms. Hackett said putting it even further back is not going to meet 75'.

Mr. Onion said the new one will be a little further from lake, but probably better for the lake.

Mr. Abbott stated that unless an applicant can see value coming back to themselves, they wouldn't improve the property. The density of the area is low.

Motion passed 4-1.

OTHER BUSINESS

APPROVAL OF MINUTES – July 8, 2021 & August 19, 2021 meetings

MOTION: Mr. Teunessen moved to approve the minutes of the July 8 2021, & August 19, 2021, meetings with submitted amendments. Seconded by Mr. Onion. Motion passed unanimously

ADJOURNMENT: Meeting adjourned at 12:05 AM.

Respectfully submitted,

Annette Andreozzi, Land Use Administrator