



**TOWN OF GILMANTON  
ZONING BOARD OF ADJUSTMENT  
THURSDAY, JULY 21, 2022 – 7 PM  
ACADEMY BUILDING, 503 PROVINCE ROAD  
603-267-6700 ext. 122  
www.gilmantonnh.org**

**MINUTES APPROVED AS AMENDED**

Members present included Chair Elizabeth Hackett, Vice Chair Nate Abbott, Members Mike Teunessen, Perry Onion, Leslie Smith and Alternate Member Zannah Richards, along with staff Bre Daigneault and Lauraine Paquin.

Members of the public included Thomas Varney, PE, Mr. Rabbitt, Ms. Goddard and General Contractor Jim Parandes of JP Builders.

Chair Hackett called the meeting to order at 7:00 pm and called on Alt. Member Richards to act as a full voting member, due to Member Smith's absence.

Member Smith arrived a few minutes after 7:00 pm so Chair Hackett rescinded Alt. Member Richards as full voting member.

**NEW BUSINESS**

**Public Hearing Case # 2022-13:** Property owners Felipe Albuquerque and Ruth Bristol as Trustees of the Albuquerque Living Trust, represented by Varney Engineering, LLC, is requesting a variance from Article IV, Table 2 to permit reconstruction of a non-conforming structure within seventy-five (75') feet of a waterbody. Existing footprint is to remain the same. The minimum setback from a waterbody is 75'. The property is located at 7 Eagle Lane, Map/Lot 109-007, consisting of .37 acres, located in the Rural Zone.

Chair Hackett read a letter from property owners granting Mr. Varney permission to represent them.

Mr. Varney explained the building on the property is being rebuilt the same size as the existing structure. The footprint will not be expanded, though the building will look very different. A new well and an upgraded septic will be installed. The driveway will also be expanded. He described the site and water runoff measures. A storm water management study was done and submitted as part of the shoreland application. Mr. Varney went over the new plan explaining the driveway changes and where storm water runoff will go.

Chair Hackett asked about the discrepancy regarding the bedrooms between the plan and the septic design. Mr. Varney stated the house will be built according to the septic approval. Chair Hackett stated the current building is one story and the new building will be two stories. She inquired if the proposed patio was at ground level. Mr. Varney confirmed it will be at ground level. Chair Hackett asked if there will be steps and if they will not jut out away from the building in any manner. Mr. Varney stated yes. VC Abbott mentioned there looks to be sliders at the ground level. Mr. Varney confirmed. Chair Hackett confirmed the new structure will be 34'6" so it doesn't go over the 35' maximum. VC Abbott explained the height and the difference between the grade level and the mean level. Mr. Varney said it will stay under 35'.

44 VC Abbott asked how far down they will need to excavate to get to the garage level. Mr.  
45 Varney stated it is already excavated. Mr. Parandes mentioned there is currently a single  
46 garage door and they will be making it a double to stay within current footprint. To  
47 accommodate the new height, they will probably need to excavate another foot down. VC  
48 Abbott asked about the runoff from the storm drain in the driveway. Mr. Varney stated it will  
49 percolate down through the soil and there is a catch basin. Member Smith asked if the  
50 driveway leading to the garage is going to be paved or sandy. Mr. Varney believes it will be  
51 paved at some point. Mr. Parandes stated that right now it will remain gravel but sometime in  
52 the future they may pave it. Chair Hackett asked if the property was in an association as there  
53 are now have two driveways not one. Mr. Parandes stated nothing is changing except for the  
54 fact the driveway goes down to the garage. Member Onion asked if they had a perc test done  
55 on the catch basin, which is supposed to be 5 feet deep. Mr. Varney stated a storm water study  
56 was completed with a percolation rate and volume of rain water. The computer-based analysis  
57 on the information states what size the basin should be. Member Onion mentioned when he  
58 had his house done, they did a perc test and asked again if that has been done. Mr. Varney said  
59 a perc test was done only for the septic. Member Onion inquired if Mr. Varney really knows if  
60 the water will drain. Mr. Varney stated he felt comfortable that it will. Mr. Parandes stated  
61 there is no water to really speak of, as he dug the test pit and it is dry like digging in a sand pit.  
62 VC Abbott stated it looks like the driveway is going to be nine feet above the lake so there is  
63 ample depth of soil. Member Onion asked which way the ridge line on the house will run. Mr.  
64 Parandes replied half the house diverts water in each direction and the other half, by design,  
65 diverts it in one direction away from the road. Member Onion asked if they paved the driveway  
66 will all the water go into that basin. The consensus was yes.  
67 Member Richards mentioned the plan shows third floor windows. Is that living space or just for  
68 light? Mr. Varney replied light. Mr. Parandes clarified there is a bedroom up there on the left side  
69 and the remaining is all cathedral. Member Richards inquired if the existing poured foundation  
70 would be re-used. Mr. Parandes stated the original foundation is in decent shape but will be replaced  
71 as they need to expand the frost wall under the extra garage door. The mechanicals are going to be  
72 in the basement and the existing concrete floor is in bad shape.  
73 Member Smith asked if the driveway is paved are there plans to put pebbles on the side of the  
74 driveway. Mr. Parandes stated if they pave it, he would recommend pervious pavers with a leach  
75 bed below.  
76 VC Abbott mentioned there was an issue with the house plan presented as it shows 2 first floors so  
77 the layout needs to be corrected. The first floor that should be labeled second floor as it says open to  
78 below. there is an area that says bunk room, which is considered a bedroom and is in conflict with  
79 the septic approval. Mr. Parandes stated he will eliminate the bunkroom from the plans. VC Abbott  
80 mentioned they can word the condition to conform with the septic approval and the plan will match  
81 that approval. Chair Hackett reconfirmed the plans need to be fixed for the office and building  
82 inspector. Member Onion inquired of the leach field being outside the side setbacks. Mr. Varney  
83 stated there are no setbacks for septic or leach field. Staff Daigneault confirmed as well. Member  
84 Onion also asked about the well being closer to the water. Staff Daigneault confirmed this is  
85 allowed. Chair Hackett stated that is not in their purview, that is the State's. Chair Hackett  
86 mentioned they could make a condition for the patio to never be enclosed or have a roof over it. Mr.  
87 Parandes stated the patio will be pervious. Chair Hackett stated that is fine but since it is in the  
88 setback, they may place a condition that it will never be enclosed. VC Abbott asked if a deck will be  
89 above the patio, as that is what it looks like in the plan. Mr. Parandes stated it is an option for the  
90 plan but there will be no deck above the patio.

Chair Hackett opened the public hearing. Abutter Ms. Goddard spoke in support of the project. She asked about the paving, as her property is oddly shaped and it would be on her property. A portion of her lot is the right of way for the road. Abutter Mr. Rabbitt also spoke in support of this project. With no further comments, Member Onion made the motion to close public hearing. VC Abbott seconded. **Motion approved 5-0**

### **Deliberation**

VC Abbott made the motion to grant the variance:

1. Granting of the variance would not be contrary to the public interest because the health, safety, or welfare of the public will not be affected.
2. The spirit of the ordinance would be observed by granting of this because the obsolete cottage is to be replaced with new structure and the property is to be environmentally upgraded.
3. By the granting of the variance substantial justice will be done because the existing use is maintained and the property is improved with a new septic system, new well and stormwater measures.
4. For the following reasons, the values of surrounding properties would not be diminished as the cottage will be a new building and replace the building that is in a state of disrepair.
5. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
  - (a) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application provision of the property as the lot is pre-zoning, is small compared to minimum lot sizes allowed, and the cottage is preexisting.
  - (b) The proposed use is a reasonable one because the owners will continue the use in an upgraded building within the footprint of the original building.

### **Conditions**

1. The patio facing the lake at the ground level of the new building will never be enclosed nor be used as living space.
2. The final plan for the building shall be a two-bedroom residence.

Member Smith seconded. Member Teunessen wanted a discussion to reword #4 in the deliberation.

**Motion approved 5-0**

**OLD BUSINESS - None**

### **APPROVAL OF MINUTES – May 19, 2022**

VC Abbott made the motion to accept the minutes of May 19, 2022. Member Teunessen seconded.

**Motion Approved 5-0**

Chair Hackett mentioned they used the new form. Going forward we should add the abutters' list in there. VC Abbott stated the worksheet was great as well.

The next meeting is August 18, 2022.

Member Teunessen made a motion to adjourn at 7:53 pm. VC Abbott seconded. **Motion approved**  
**5-0**

Elizabeth Hackett, Chair