



**OWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JANUARY 19, 2023 – 7 PM
ACADEMY BUILDING, 503 PROVINCE ROAD
603-267-6700 ext. 122
www.gilmantonnh.org**

MEETING MINUTES APPROVED

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

Members Absent: Alt. Member Zannah Richards.

Members of the public: Roland Farland, Gretchen Agresti, Chery Rodriguez, Judy Zamperini, John Zamperini, Anthony Anastasio, Michael Griffin, Janice Tkacik, Frank Tkacik, Tom Lemien, Michael Keho, James Williams, Gerry Twardosky and Rich Adams.

Chair Hackett called the meeting to order at 7:01 pm. She explained the procedures and processes of the hearing.

Chair Hackett called for the members to nominate Chair and Vice Chair for the upcoming year. Member Onion nominated Member Hackett as Chair; Member Abbott seconded. **Motion passed 4-0.** Member Onion nominated Member Abbott as Vice Chair; Member Teunessen seconded. **Motion passed 4-0.**

NEW BUSINESS

Public Hearing Case # 2023-01: Property owner Roland Farland is requesting a variance from Article VI, Section D to utilize a recreational vehicle on his property located on Laurel Ave, known as Map and Lot #120-021, located in the Residential Lake Zone.

Mr. Farland explained he purchased this property in 1959. In the 60's, there was a 10x40 trailer on the lot. He would like to have a travel trailer on the property to stay in. When his daughter retires, they would like to build on the property. Chair Hackett believes Mr. Farland will be putting it on the flat area as the property has a stream and a hill. She asked how far from the road it would be. Mr. Farland stated previously it was 40' from the road, as there is a 1000 gallon septic tank. Chair Hackett asked if the shed would be staying on the property. Mr. Farland stated it would be and he plans to make it look better. VC Abbott asked if the property owner could approach the board and draw on the map where the RV would go. Ms. Agresti drew its approximate location in front of the stream. VC Abbott asked how far from the Laurel Rd. property boundary would the RV be. Mr. Farland stated the previous one was about 60' from Laurel Rd. VC Abbott asked how far from the stream will it be. Ms. Agresti stated they measured 7' from the stream. They would be looking to angle the trailer on the property. VC Abbott asked when was the previous trailer removed. Mr. Farland believes it was in the 80's. He also stated the stream did not use to be that wide. He stated a culvert had been redirecting water onto his property. VC Abbott asked if the septic had been inspected recently. Mr. Farland stated it had not been inspected since installed; at such time the State had inspected it. VC Abbott asked if they have been placing a trailer on the property via the Town's process. Ms. Agresti stated they have not. VC Abbott stated the lot has been vacant for more than 20 years. Member Onion asked if there was any record of the septic. Mr. Farland stated the Town and State do not have anything and his documentation was lost in a fire in 1998. Member Onion asked

Staff Daigneault if the Town has any issues with them hooking back up to this septic. Staff Daigneault, was unsure as it sounds like the septic is no longer up to State standards. She would need to verify with DES. Member Onion asked if the Town needs to make sure the septic is not leaching into the stream since Mr. Farland stated the stream has been moved. Staff Daigneault stated it would not be out of the ordinary to ask to have a designer sign off that the septic is viable. Chair Hackett asked if the RV would be seasonable or year-round. Mr. Farland would like to have it on the property year-round but not live in it year-round. Member Teunessen mentioned the property has a lot of trees and asked about any cutting of the trees near the stream. If the owners do need to cut along the stream, they should talk to the State about potential permits. Mr. Farland stated what you see on the property is staying there.

VC Abbott mentioned this hearing is about merit and guidelines. He explained they have to treat every person the same when they are doing this process regardless of the person. The taxpayers in the town have made the rule about RVs. The voters chose this restriction and that is the matter that has to be decided today. They need to be able to answer all 5 criteria. Staff Daigneault explained another part to this is that campers that are permitted in other areas are not permitted in the Residential Lake District, which is where their property lies. There are two parts to this: can they have this in the Residential Lake District where it is not permitted and can they have it year-round which is not permitted by ordinance. Chair Hackett explained that whatever decision the Zoning Board makes stays with the property and not the owner.

Chair Hackett opened the case to public comment. Abutter Rich Adams voiced his concern against the RV and explained how the RV restriction at Sawyer Lake came about. Abutter Tom Lemien stated he had the same concerns as Mr. Adams and a pollution concern. He did thank the Farlands for cleaning up the trash on the property. Abutter Janice Tkacik was concerned that by allowing this RV it would set precedent for others to do the same. She also stated the brook hasn't been moved as it has been in that same location since she was a child. Chair Hackett thanked everyone for speaking and explained that they treat each property individually.

Abutter Mike Keho stated about 20 years ago he bought two vacant properties in Sawyer Lake District. He went through the same process and he was also told he couldn't have a trailer on those properties. In 2011, he was finally able to buy two other properties in Sawyer Lake District and one of them had a house.

Member Smith asked what size will the trailer be. Mr. Farland stated 24' to 30' long. He then stated it would be maximum of 26' long and 8' wide. VC Abbott explained the board can't consult or advise people but asked if they have considered building a small house at the location. Mr. Farland stated he is too old but his daughter is considering, when she retires, to build a house on the property.

Member Onion made the motion to close public hearing. Member Smith seconded. **Motion approved 5-0.**

Public Hearing Case # 2023-02: Property owners John and Judy Zamperini are requesting a variance from Article VI, Section D:6, to store a recreational vehicle on a lot where the single-family dwelling is under construction. The property is located at 143 Crystal Lake Rd, Map and Lot #112-001, located in the Rural Zone.

Mr. Zamperini explained he forgot to come back to the board in October after the decision expired. They are ¾ of the way to being finished with the house and hopefully they can be in the house by Spring and then sell the camper. Chair Hackett explained that the board understands they forgot and can see they are not living in it. Member Smith asked if they are using the camper intermittently until the house is finished. Mr. Zamperini mentioned the camper is locked up, as it is not a four season camper. But they did use it in the summer. Member Smith asked for clarification on what they

meant by “when complete we will be in compliance with the ordinance” on the application. Mr. Zamperini stated he was told by the Town that when the house is finished, he can store the camper on this property. VC Abbott stated he is correct, the ordinance does allow for storage, not living, of a camper with a house. He explained this part of the ordinance came about from public input that campers were an issue on vacant lots. If there is a ban on something then you have to have a safety valve; the ZBA is the safety valve for this. He asked if the property owners knew when the house would be finished. Mr. Zamperini hopes to be in by Mid-March or April at the latest. Member Smith asked if she should recuse herself as she has gotten some wood scraps from the Zamperinis and didn’t know if that is a conflict. Chair Hackett stated she feels it is not. However, she can recuse herself if she feels it will be an issue. Member Smith felt that would not affect her decision, but wanted to be transparent.

With no further comments, VC Abbott made the motion to close public hearing. Member Teunessen seconded. **Motion approved 5-0.**

Deliberation

Case #2023-01

Member Onion felt the location of the property is an issue that works against the property owners. Member Smith mentioned she doesn’t like saying no and if there is a way, since it is a camper, to have it move and not be there all the time. VC Abbott stated that this is permitted everywhere but not in the Residential Lake District, so that would not be feasible. Staff Daigneault read the ordinance for Member Smith.

VC Abbott made the motion to deny the application for a variance in Case #2023-01, applicant Roland Farland, who is requesting a variance to use a recreation vehicle on his property in the Residential Lake District from Article VI, Section D.:

- A. The granting of the variance would be contrary to public interest because it was demonstrated to the members of the board that residents are sensitive to the placement of recreational vehicles on properties in the Residential Lake District.
- B. The spirit of the ordinance would not be observed because this very visible location would have a recreational vehicle year-round, highly exposed to residents and visitors. The spirit of this ordinance is to prevent that from occurring.
- C. If the variance was granted, the value of the surrounding properties would possibly be diminished. Curb appeal is one item people look at when buying a property. It was heard here tonight that people are put off by recreational vehicles outside of an RV park.

Member Onion seconded.

Chair Hackett stated she had a concern because this wouldn’t be an unnecessary hardship. VC Chair Abbott stated that the existence of Badger Brook could be argued as a hardship but the applicants have to meet all five criteria.

Chair Hackett gave instructions on how to appeal the decision within 30 calendar days.

Motion to deny passed 5-0

Case #2023-02

Chair Hackett explained that Mr. and Mrs. Zamperini were granted a variance with a condition that the house be finished by October 31, 2022 or they would have to come back. They were unable to complete the house so they are back.

VC Abbott made a motion to grant the application in Case #2023-02, applicants John and Judy Zamperini for a variance from Zoning Ordinance Article VI, Section D:6, to store a trailer on a vacant lot on the above noted property, subject to the following findings and conditions:

- A. The granting of the variance would not be contrary to 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 and the conditions are temporary.
- C. By granting the variance substantial justice will be done because a resident will be able to erect their dwelling without undue hardship.
- 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, in that it is a vacant property transitioning to a full-time residence distinguishing it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application to this property because the applicants will be constructing their residence during the time of effect of this variance,

AND

- (ii) The proposed use is a reasonable one because the lot is suitable for a residential dwelling and the applicant is pursuing their rights to build in a normal fashion consistent with other properties in the district.

CONDITIONS:

- 1. The applicant will have applied for and received a building permit for the property prior to January 31, 2022.
- 2. If the applicant is unable to complete construction prior to April 1, 2023, the applicant will need to return to the Zoning Board of Adjustment for an additional variance.

Member Teunessen seconded.

Member Teunessen questioned why it was extended to April. VC Abbott stated the building permit expires at the end of March. Staff Daigneault mentioned that as of May 15 they could apply for a camper permit.

VC Abbott amended his motion to make Condition #2 to May 15, 2023. Member Teunessen seconded.

Member Onion asked why not extend it to November when the camper permit runs out. Chair Hackett asked all members if making the date to November 2023 was fine. Motion was amended to November 2023. Member Teunessen seconded.

Motion approved 5-0.

OLD BUSINESS - None

APPROVAL OF MINUTES – October 20, 2022

VC Abbott made the motion to accept the minutes of October 20, 2022 as amended by Chair Hackett, Member Onion and Member Smith. Member Teunessen seconded. **Motion Approved 5-0.**

The next meeting is February 16, 2023.

Member Teunessen made a motion to adjourn at 8:12 pm. Member Onion seconded. **Motion approved 5-0.**

Elizabeth Hackett, Chair