



**TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 16, 2023 – 7 PM
THE TOWN OFFICES AT THE ACADEMY BUILDING,
503 PROVINCE ROAD
603-267-6700 ext. 122
www.gilmantonnh.org**

APPROVED

MEETING MINUTES

Chair Elizabeth Hackett introduced herself and members present to include Vice Chair Nate Abbott, Members Perry Onion, Mike Teunessen, and Leslie Smith. Members of the public present included Justin Caldon and Kevin Sweeney.

Chair Hackett explained the rules and procedures of the Board. There would need to be a vote of three members in order for a vote to pass.

NEW BUSINESS

- I. Public Hearing Case # 2023-03:** Property owner Lauren Sweeney, represented by Justin Caldon, is requesting a variance from Article IV, Table 2 to permit construction in the front yard setback. The property is located at 181 Lakeshore Dr, known as map and lot 131-016, consisting of .22 acres, in the Rural Zone.
- Mr. Caldon, representing the property owner, stated they are looking to place a foundation under the structure. The addition would house stairs to the basement and a mudroom which would be placed within the setbacks. VC Abbott inquired as to the roof on the addition. The roof would be extended from the existing roof, possibly changing the pitch slightly. Chair Hackett inquired of the stairs extending off the addition. Mr. Caldon stated the stairs would not extend past the existing structure. Chair Hackett inquired of the trees to be removed. Mr. Caldon stated the trees' root systems are extending under the building and would need to be removed for the foundation. VC Abbott commented that they would need to excavate close to the effluent disposal area and inquired if there would be an additional retaining wall. Mr. Caldon stated the foundation would act as the retaining wall. The existing deck would be raised with the house and placed back on new precast footings. Member Smith inquired of the retaining wall running parallel to the road. Mr. Caldon stated the shoreland design added the retaining wall. Kevin Sweeney stated the State required this for drainage. Member Onion confirmed the location of the retaining wall. Mr. Caldon approached the board to show the location on the plan and explained it is, essentially, to keep the dirt from going around the building. VC Abbott inquired for an explanation for the two applications. Mr. Caldon stated it was for time limitations. If they were denied the variance, it would put the construction off and may put them in jeopardy of a road ban being in place. They are preferring the variance over the special exception. With no further comments, Member Teunessen made the motion to close public hearing. Member Onion seconded. **Motion passed 5-0**

Deliberation:

Member Onion made the motion to approve the application of case number 2023-03: Property owner Lauren Sweeney, represented by Justin Caldon, is requesting a variance from Article IV, Table 2 to permit construction in the front yard setback. The property

is located at 181 Lakeshore Dr, known as map and lot 131-016, consisting of .22 acres, in the Rural Zone.

1. Granting the variance would not be contrary to the public interest because the public interest would be furthered with new construction and septic.
2. The spirit of the ordinance would be observed because no changes to the nature of the neighborhood would take place.
3. Granting the variance would do substantial justice because the owners would have enhanced use of the property with no negative effect on anyone else.
4. The values of the surrounding properties would not be diminished as surrounding properties, if anything, would gain in value.
5. Unnecessary Hardship
 - a. 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:
 - (i) There is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because: the property has enough slope to demand terracing and new walls are needed to support the desired changes.
 - (ii) The proposed use is a reasonable one because: the new building would enhance, not detract from the neighborhood.

VC Abbott seconded the motion with the following amendments as he did not believe a new septic would be added:

1. Adding they would be improving the landscape of the property and remove new septic

Members concurred with the amendment. VC Abbott added a correction to paragraph: 5(i) It should state there “is not a fair and substantial relationship” and ii. “The proposed use is a reasonable one”.

Member Onion approved of the amendments to his motion.

Member Smith inquired if the staircase would be extended alongside the house. VC Abbott explained the staircase would be the length of the house with the addition being almost the length. Member Smith inquired if they should limit the amount of expansion of impermeable surfaces. VC Abbott felt the impermeable surfaces would be increased, but felt the waterflow would be improved. Member Teunessen felt that with the changes, the drainage would be improved. Member Smith felt the stairs not being covered would not make it more impermeable. VC Abbott felt this was a reasonable proposal and reasonable to the property owner. The increased value to the owner and property are greater than the damage imagined by the increased impermeable surface. Member Teunessen inquired if DES would approve something if they felt there would be an issue. Member Onion stated the application to DES shows 16.6% increase to the impermeable surface of the property. VC Abbott felt the board should reopen the public hearing to ask the applicant. Member Onion seconded. **Motion passed 5-0**

Chair Hackett inquired of the applicant whether the impervious surface improved would be 16.6%. Mr. Sweeney stated as part of their application with DES, based on his conversation with the (subsurface) designer, they agreed to have an existing shed on the property removed. He was unsure if the increase of impervious surface creates a net

increase. Mr. Caldon felt, after a quick calculation, the increase may be 10 square feet.

Member Onion made the motion to close the public hearing. Member Smith seconded.

Motion passed 5-0

Deliberation continued:

With no further discussion and a motion with a second on the table, members proceeded to vote.

1. **Granting the variance would not be contrary to the public interest because the public interest would be furthered with new construction and improved landscape.**
2. **The spirit of the ordinance would be observed because no changes to the nature of the neighborhood would take place.**
3. **Granting the variance would do substantial justice because the owners would have enhanced use of the property with no negative affect on anyone else.**
4. **The values of the surrounding properties would not be diminished as surrounding properties, if anything, would gain in value.**
5. **Unnecessary Hardship**
 - a. **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:**
 - i. **There is no a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because: the property has enough slope to demand terracing and new walls are needed to support the desired changes.**
 - ii. **The proposed use is a reasonable one because: the new building would enhance, not detract from the neighborhood.**

Motion passed 5-0

- II. Public Hearing Case # 2023-04:** Property owner Lauren Sweeney, represented by Justin Caldon, is requesting a special exception from Article VII, Section B 1&2 to permit expanding a non-conforming structure. The property is located at 181 Lakeshore Dr, known as map and lot 131-016, consisting of .22 acres, in the Rural Zone.

Mr. Caldon withdrew case# 2023-04.

OLD BUSINESS – None

APPROVAL OF MINUTES – January 19, 2023

VC Abbott made the motion to approve as amended. Member Smith seconded. **Motion passed 5-0**

Member Teunsessen made the motion to adjourn. Member Smith seconded. **Motion passed 5-0**

Elizabeth Hackett, Chair