



**TOWN OF GILMANTON  
ZONING BOARD OF ADJUSTMENT  
THURSDAY, FEBRUARY 15, 2024 – 7 PM  
TOWN OFFICES AT THE  
ACADEMY BUILDING, 503 PROVINCE ROAD  
603-267-6700 ext. 122  
www.gilmantonnh.org**

**MEETING MINUTES APPROVED**

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

Chair Hackett explained the procedures of the board.

**NEW BUSINESS**

**Public Hearing Case #2024-04:** Property owner George S. Forsyth II along with applicant Samantha J. Clements are applying for a variance from Article IV, Table 2 to subdivide one lot having 155.66' of frontage where the minimum requirement is 200'. The land agent is Fieldstone Land Consultants, PLLC. The property is located at 78 White Oak Rd, known as map/lot 417-012, located in the Rural Zone.

Agent Mike Clough introduced himself as being with Fieldstone Land Consultants. He stated he was representing the property owner, George Forsyth II, and applicant Samantha Clements. Mr. Clough stated a variance was being requested under article IV, table 2 to permit a two-lot subdivision. The subject parcel consists of 11.3 acres of land having 355.66 feet of frontage. He stated there were 2 small pockets of wetlands towards the southern portion of the lot. He stated there was an existing house, driveway, and improvements located at the northwest corner of the lot which left most of the land undeveloped. Mr. Clough stated that table 2 for a conventional lot would require a minimum of 2 acres having 200 feet of road frontage. He stated the existing dwelling would remain on 7.25 acres and would have 200' of frontage. He continued saying that the new lot would consist of 4.04 acres and would have 155.6' of frontage, which requires relief from Article IV, Table 2. Mr. Clough read his responses to the five criteria for approving a variance from the submitted variance application. Mr. Clough reiterated that they are proposing a two-lot subdivision. He described the subdivision as shown on the plan. He stated the lot would be approximately 44' short of the required frontage, however, it would be larger than required. He stated the buildable area would be to the back of the lot, maintaining the distances between houses. He explained that a road with a cul-de-sac could be developed on the property and could create a 4-5 lot subdivision. Mr. Clough further stated that there are several surrounding lots that have reduced frontage and fewer than the 2 acres. These lots are preexisting and non-conforming lots. He stated there are additional neighboring properties that have 200' but 1.3 acres.

Chair Hackett inquired of the driveway placement and had concern with the location of an existing utility pole. Chair Hackett inquired of the well placement. Mr. Clough stated there would be plenty of room for a well placement with keeping the 75' well radius. Chair Hackett inquired of the acreage on the survey versus the tax map. Mr. Clough explained the tax map was not correct and based on a scale. He further stated they had to survey a large portion of the area in order to accurately survey the subject lot. Member Onion inquired of the location of the existing well. Mr. Forsyth explained the locations. Member Onion verified that there would be plenty of room for a new septic and well. VC

Abbott felt like it looked like a straight shot to the proposed site from the existing abutter's house location. Mr. Clough stated there was natural vegetation between the properties that would remain. Chair Hackett opened the public hearing.

Chair Hackett read a letter from Alt. Member Zannah Richards, who was not present. She was not in favor of granting the variance.

With no additional comments, Chair Hackett requested a motion to close the public hearing. Member Onion made the motion to close the public hearing. Member Teunessen seconded. **Motion passed**

**5-0**

## **OLD BUSINESS**

**Continued from January 18, 2024- Public Hearing Case #2024-01:** Property owners Bertrand LaFlamme and Angela Christie are requesting a variance from Article VI, Section D to utilize a camper longer than previously approved on their property located at 19 Wood Dr, known as map and lot 118-25, located in the Residential Lake zone.

Ms. Christie stated that they are requesting an extension to stay in the camper longer. She stated that they are still dealing with the litigation with the insurance company and the mitigation company which caused the damage to the home. She explained they had another insurance adjuster out to the property this past week. She stated that they are in the arbitration process with the insurance company. Ms. Christie explained the house is still full of mold and unlivable. Chair Hackett felt it was a hardship for them living in the camper. She inquired as to what time extension the owners would be requesting. Ms. Christie felt they would need at least a couple of months. She stated that they have a contractor waiting to start as soon as everything is settled with the insurance company. She felt that once he can start, it would be about 3 months until it was finished. Mr. LaFlamme stated they would utilize other resources, whether they were waiting for the insurance company or not, to have housing. He believed they would be able to be out of the camper by the beginning of the summer. Chair Hackett inquired if the house could be fixed or if it would need to be rebuilt from the basement up. The owners felt the house would need to be built from the ground up. They explained that the insurance company is trying to determine what damage was caused by the water damage and what damage was caused by the mitigation company. Member Onion inquired as to what would happen if the mediation with the insurance company did not go well and confirmed there is an October court date. Ms. Christie stated this date was with the mitigation company. She stated that they are hoping to settle with the insurance company prior to October. She explained that the house is all evidence and they could not do anything until it was settled. Ms. Christie reiterated that they are in mediation with the insurance company. Member Onion feared that the two months they are requesting for extension may not be what they end up needing. Mr. LaFlamme felt that the foreseeable construction would be started closer than the October court hearing. He stated that when they first came in (for the variance), they anticipated meeting the date that was set as the condition of approval. He felt they will have the resources to make meeting the extended date happen. He does not believe they will be living in the camper past June. VC Abbott felt that the Board could set a reasonable date and schedule another hearing, if necessary. He had a sense the community would want to support the property owners.

Chair Hackett opened the public hearing. Member Teunessen made remarks against the insurance company. The property owners stated that they have been out of their house for 2 ½ years now. Mr. LaFlamme stated the mitigation company had taken materials out of their house to reuse in other properties. VC Abbot reiterated that the property owners did need more time but felt they may have other options. He inquired if June 30<sup>th</sup> would be a reasonable date. Mr. LaFlamme felt

that June 30<sup>th</sup> would be more than reasonable and would not want to come in front of the board again. VC Abbott felt they could come back to the board and allow the owners to give further explanation, if needed.

With no further comments, Member Onion made the motion to close the public hearing. Member Smith seconded. **Motion passed 5-0**

## **DELIBERATION**

**Public Hearing Case #2024-04:** Property owner George S. Forsyth II along with applicant Samantha J. Clements are applying for a variance from Article IV, Table 2 to subdivide one lot having 155.66' of frontage where the minimum requirement is 200'. The land agent is Fieldstone Land Consultants, PLLC. The property is located at 78 White Oak Rd, known as map/lot 417-012, located in the Rural Zone.

Chair Hackett reiterated the case details. She stated that the Board does not decide on a subdivision and that the Planning Board does. She stated that this decision was just to decide whether the Board will allow the owners to subdivide under 200' of road frontage. VC Abbott felt the Board could easily focus on the road, without looking at the subdivision. His opinion was that this was a question of safety, site line, and if a curb cut would be approved. Member Onion didn't understand why they would be held to that narrow of a view. He felt they would be making a decision on how many houses that would go in if there was a subdivision or not. Chair Hackett felt that aspect would be a concern of the Planning Board. VC Abbott again felt the density would be a purview of the Planning Board. Member Onion didn't feel the criteria would make sense if the only aspect were the road frontage. VC Abbott stated that with the addition of an additional house in the area, it could be considered the diminution of property values. Member Smith didn't believe it would be a diminution of value. She stated that there were other houses on smaller lots in that area. Member Teunessen stated that looking at White Oak Rd, there are other lots with less road frontage than proposed, some with more. He stated that the road is straight and pretty much flat. He did not feel the site lines would be an issue. Member Smith felt that the proposed house location, being set back from the road, would not interfere with site lines. VC Abbott wondered if the Board could make a condition that the house be set back from the road. He measured an area to be approximately 260' from the road.

Member Teunessen made the motion:

1. Granting the variance would not be contrary to the public interest because there are properties in the area that have less than 200' of road frontage.
2. The spirit of the ordinance would be observed because the proposed subdivision would create two lots, both of which are larger than the 2 acre required minimum per lot.
3. Granting the variance would do substantial justice because the character of the neighborhood would not be changed.
4. For the following reasons, the values of the surrounding properties would not be diminished in that the two properties would be larger than the minimum requirements and the possible building lots would be in line with the values of surrounding properties when houses are built.
5. Unnecessary Hardship  
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 not 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 it will

allow for development of possible homes on lots that do meet size requirements with the only problem being the frontage of the second lot.

- ii. The proposed use is a reasonable one because there will be more than adequate space between homes, should they be built on these two separate properties.

With the following conditions:

1. The proposed house shall be built at least 263 feet from front of road.

VC Abbott seconded. He recommended amending the motion under criteria 5i to state:

The subject property is unique given its geometry and size:

5. Unnecessary Hardship

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 not 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 subject property is unique given its geometry and size.

Member Teunessen agreed to the amendment. **Motion passed 5-0**

**Public Hearing Case #2024-01:** Property owners Bertrand LaFlamme and Angela Christie are requesting a variance from Article VI, Section D to utilize a camper longer than previously approved on their property located at 19 Wood Dr, known as map and lot 118-25, located in the Residential Lake zone.

Chair Hackett stated that the owners were waiting on the insurance company. Members discussed extending to four months, making the extension to the end of June. Member Smith felt it may be too short.

Member Teunessen made the motion to reiterate the prior motion for the decision and change the date on the conditions to June 30, 2024. VC Abbott seconded. Motion passed 5-0

1. Granting the variance would not be contrary to the public interest because the residents are with few other choices and the variance will be temporary.
2. The spirit of the ordinance would be observed because the circumstances surrounding the need for the trailer are beyond the control of the applicant or the town.
3. Granting the variance would do substantial justice because the impact of the incident of damage that the applicants experienced calls on the community to support the applicants.
4. The values of the surrounding properties would not be diminished because permission to keep the trailer on the property is temporary and not long in duration.
5. Unnecessary Hardship  
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. There is not a substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the applicants experienced a loss that injured them and unavoidably affects their neighbors.
  - b. The proposed use is a reasonable one because it is for only a few months.

Conditions:

1. This approval expires on June 30, 2024.
2. Should conditions remain unchanged by the deadline, a return to the ZBA with a timely application for an extension must be made.

**Motion passed 5-0**

Staff Daigneault stated for the record that they would need to attend the June 20<sup>th</sup> meeting, if an extension were needed, which has an application deadline of May 30<sup>th</sup>.

**APPROVAL OF MINUTES – January 18, 2024**

Member Teunessen made the motion to approve the minutes. Member Onion seconded. VC Abbot abstained as he was not present. **Motion passed 4-0**

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

Elizabeth Hackett, Chair