

Zoning Board of Adjustment
Minutes
January 17, 2013

Members Present: Wayne Flynn, Tom Dyar, Sue Whitehouse, PJ Cyr, Keith Roberge and Yves Zornio (Alternate)

Members Excused: Stephanie Kennedy

Members of the Public: Doug Lavigne, Tim Sappington, Andy Hoar, John Scarinza, Tom Cote, Julie Dale, Eric Gagne, Tom Maniscalco, Jay Holmes, Robert Balon

Call to Order: Meeting was called to order at 7:03 by the Chairman

Minutes of September 27, 2012 – On a motion from Keith with a second from Tom, all members voted in favor of accepting the minutes as presented.

Case #01-2013 – Robitaille / Lavigne - Variance

Wayne recused himself from this case and asked the Chairman to be excused from the meeting due to the fact that if this variance is approved the applicant will need to go to the Planning Board for Site Plan Review of which Wayne is the Chairman. The chairman excused Wayne and appointed Yves as a full voting member for this case. The chairman read the application noting that public notice was properly given and acknowledging that the abutter's notice inaccurately identified the variance to be from Article IV, however the Section was correctly identified and the explanation was adequately described. The Chairman then asked the applicant to present his case to the board. The applicant proposes to purchase the property at 70 Main Street and do a complete restoration of the building converting it to condo units without increasing the building size. Removal of the existing garage would allow him to meet the required 2 parking spaces for each unit. This project would be in the Town's best interest as it would add value to the abutter's properties and would increase revenue. It would add housing that the Town currently doesn't have and would help to revitalize the Town. Tim Sappington added that they met with the Fire Chief and per that discussion the plan meets life safety codes, allows for 2 exits from each unit. The building is "balloon framed" and the Fire Chief has asked for fire stops at each level though no sprinklers are necessary. The applicant met with the Technical Review Committee (TRC) which consists of all the department heads and the minutes were provided to the board for their review. The question arose about the requirement for an additional 10,000 sq ft for each unit above 3 units. It was identified that this was a petitioned warrant article. Mr. Holmes informed the board that the petition arose because his neighbors petitioned it. Prior to the petition, 3 units were allowed on property that had up to 10,000 sq ft but the petition removed multi-family units from Residential zones and restricted them to Commercial Zones. He also questioned where Mrs. Robitaille was as no one has seen her in years. Tom Cote also questioned whether the board had seen any Power of Attorney paperwork from Mrs. Robitaille allowing Mr. Lavigne to speak in her behalf. The property has been on the market for quite some time and it is Mr. Sappington and Mr. Lavigne's belief that the building will not sell if not remodeled as it is too large for a single unit and not saleable as a rooming house. The owners have not had any other offers that they are aware of. Eric Gagne of 7 Alpine Street asked if a buffer has been considered as the removal of the garage would allow headlights to be pointed directly at his and the Cote properties. Mr. Lavigne stated that he would be willing to install a 6' vinyl fence. Mr. Gagne also questioned if the building was sold to individual property owners there was the potential for sub-letting of the property as well. Mr. Cote questioned snow plowing and storage as the property drops toward the property at 7 Alpine and could impact drainage onto their property. He addressed the five criteria for granting a variance

- 1) Contrary to Public Interest – He questioned if there was adequate parking. If each unit had snow machine trailers, there would not be enough space to park those and vehicles meaning that parking would be on either Main Street or Alpine Street and could crowd those streets
- 2) Hardship - He believes the building could be used for other than a 4 unit condo and that the lot is small and the use should be limited to a boarding house, duplex or a single unit.
- 3) Spirit of the ordinance - He believes the intent of the ordinance is to reduce growth in Town
- 4) Substantial Justice – He believes that the limited parking, car lights from residents of the building shining into the abutting properties, drainage of snow onto the 7 Alpine Street property and snow

on the boundaries could diminish the surrounding property values. (Mr. Sappington indicated that a survey would be done and drainage would be addressed)

5) Diminution of property values – Same as #4

Mr. Holmes and Mr. Balon questioned why the TRC meeting wasn't published so the public could attend. Mr. Balon also stated that he owns a 40,000 sq ft parcel of land and if the board granted these variances, he might be tempted to put a 6 unit condo on his lot which is in Residential A.

The board discussed the questions that were brought up

- 1) Power of Attorney paperwork was questioned by an abutter raising the legality of the form authorizing Mr. Lavigne to act on Mrs. Robitaille's behalf.
- 2) The question of the legality of the TRC meeting

Discussion then ensued on whether the board could vote to approve the plan with the condition that it be scaled back to 3 units. It was decided that the applicant would need to reapply for a building with only 3 units.

Keith made a motion to continue the case until a legal opinion could be obtained from the Town's attorney regarding the legality of the Power of Attorney paperwork for Alice Robitaille and to allow time for the board to consider testimony given. The meeting will be continued to February 14, 2013 at 7 pm at the Gorham Town Hall Public Hearing Room. The motion received a second from Tom. All members voted in favor

There was no one in attendance to speak either in favor of or against the application.

The applicant questioned if he were to submit a new application for a 3 unit condo, could he meet with the Planning Board and the Zoning Board at the same time. If the paperwork is received in time and the Planning Board is able to meet on February 14, 2013 a joint meeting can be scheduled.

Communications & Miscellaneous – None

New Business – Tom Maniscalco would like to be on the board agenda. There is a drainage problem on the Labonville Trailer Park Lot which has been happening since 20 years ago and is eroding the riverbank and 3 trailers in the park. He would like to know whose responsibility is it to ensure zoning regulations are upheld. The Chairman informed the applicant that statutorily the board does not have authority to deal with this problem. There are statutes that address how an aggrieved party can appeal the decision of the zoning board but it has to happen within 30 days of the board's decision.

Old Business – The board discussed an appeal of the board's decision that was received from Robert Balon pertaining to a home occupation of Lorraine Lajoie. The appeal was received on September 13, 2011 within the required time limit but was misplaced with other files. The Chairman asked the secretary to write a letter to Mr. Balon explaining the situation to him and to see if he still wishes to pursue the appeal.

Adjourn – On a motion from Wayne with a second from Sue all members voted in favor of adjourning at 8:33 pm.