**Gilford Zoning Board of Adjustment**

**Minutes**

**February 22, 2022**

**Conference Room A**

**7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, February 22, 2022, at 7:00 P.M. in Conference Room A and via GoToMeeting.

Chairman Bill Knightly led the Pledge of Allegiance.

Present were Chairman Bill Knightly, Regular Members Scott Davis and Adrianna Antonopoulos, and Alternate Members Kevin Hayes and Richard Grenier.

Members absent were Vice-Chairman Larry Routhier and Regular Member Andrew Howe.

Also present were Sandra Hart, Technical Assistant; John Ayer, Director of Planning and Land Use; Norman Skantze, Deputy Code Enforcement Officer; and Laura Spector-Morgan, Town Attorney with Mitchell Municipal Group.

B. Knightly appointed R. Grenier to stand in for A. Howe, and K. Hayes to stand in for L. Routhier.

B. Knightly asked if everyone could state their name before starting their presentation.

1. **Applications:**

**1.1. MG Holdings, LLC**

**Application #2021000525** Applicant is seeking a Variance from Article 6, Section 6.22.3 to allow excavation and/or filling of slopes greater than 25% to allow construction of a house on property located at 68 White Birch Drive, on Tax Map & Lot #253-366.000 in the single Family Residential SFR Zone. Tabled from the January 25, 2022 meeting.

**1.2 MG Holdings, LLC**

**Application #2021000526** Applicant is seeking Variance from Article 6, Section 6.22.3 to allow excavation and/or filling of slopes greater than 25%, and from Article 5, Section 5.1.3 to allow construction of a house within the from setback, on property located at 77 White Birch Drive on Tax Map & Lot #253-365.000 in the Single Family Residential (SFR) Zone. Tabled from the January 25, 2022 meeting.

**1.3 MG Holdings, LLC**

**Application #2021000527** Applicant is seeking a Variance from Article 6, Section 6.22.3 to allow excavation and/or filling of slopes greater than 25% on property located at 94 Sagamore Road on Tax Map & Lot #252-143.000 in the Single Family (SFR) Zone. Tabled from January 25, 2022 meeting.

Motion by K. Hayes to take off the table the items for MG Holdings, LLC, Agenda items 1.1, 1.2, and 1.3, Application #2021000525, Application #2021000526, and Application #2021000527. Second by S. Davis. There was no discussion. The motion passed by unanimous vote.

Motion by K. Hayes to table the hearings for MG Holdings, LLC, Application #2021000525 and Application #2021000526 until the meeting of March 29, 2022 at the request of the principles, and to remove MG Holdings, LLC, Application #2021000527, from the process, as the owner has withdrawn it. Second by S. Davis. There was no discussion. The motion passed by unanimous vote.

**1.4 Peter Derby**

**Application #2022000038** Applicant is seeking a Variance from Article 5, Section 5.1.4 Side Setback Area, and Table 2 Dimensional Regulations, to allow a dwelling to have a side setback of 11 feet, where a 25-foot setback is required, on property located at 2 Lockes Island on Tax Map & Lot #243-032.000 in the Island Residential (IR) Zone and Island & Shore Frontage District.

Peter Derby explained that they are making a minor adjustment to the lot, so they need to apply for the variance. He noted that there would be no changes to the property other than this adjustment and that his neighbor, Michael Colizzi, who was also present, was in agreement with the change. There was a brief review of the two lots’ lines. Everything exists, and the neighbor, M. Colizzi, has a proposed shed that he wishes to build.

J. Ayer stated that the applicant and Mr. Colizzi are interested in making their lots’ shapes more squared-off. He said there will be an equal exchange of land upon approval of the lot line adjustment which will go before the Planning Board. The variance is needed for P. Derby because the new boundary line will be moved to where his house will not meet setbacks, and M. Colizzi’s house will meet setbacks whereas it currently does not.

There were no other questions from the board.

There were no comments from the public (in-person).

There were no comments from the public (virtual).

S. Davis requested the applicant to go through the five points of the application for the record. P. Derby reviewed the Application For A Variance. Granting the variance would not be contrary to the public interest because the lots exist and the structure is existing. The need for relief from the side setback is due to a lot line adjustment that makes the lot more regular in shape. Granting the variance would not change the density or the character of the surrounding properties. The spirit of the ordinance is observed because the setback requirements are created to control congestion as well as public safety. The structures already exist, and the relief is for an open deck. The welfare of the general public is not affected by granting this variance. Substantial justice is done because relief will allow the approval of a lot line adjustment making two irregular-shaped lots more desirable and more regular with no harm to the general public. The values of surrounding properties will not be diminished because granting relief of a side setback requirement to an existing open deck for the purpose of granting a lot line adjustment that makes two irregular-shaped lots both regular and more desirable will have no effect on surrounding property values. The original subdivision that created the lot was done long ago. The lot is irregular in shape and bends behind the neighbor. The proposed lot line adjustment creates a net zero change in the area but makes the lot regular in shape. For this instance, literal enforcement would benefit no one. Keeping the spirit of the ordinance in mind, as well as the fact that the structures affected already exist and the need arises from a lot line adjustment request that makes two existing irregular shaped lots regular in shape and more desirable in all aspects, thereby creating no fair and substantial relationship between the general purpose of the ordinance and the specific application. The use of a single-family home is not changing, and its use is reasonable.

There were no questions from the board.

K. Hayes moved to grant the variance as requested in Application #2022000038, and granting of the variance would not be contrary to the public interest, the spirit of the ordinance is observed, justice is done by allowing the approval of the lot line adjustment making the irregular-shaped lots more regular and desirable with no harm to the general public, the values of the surrounding properties will not be diminished, and little enforcement of the provisions of the ordinance will result in an unnecessary hardship because they would have to go further to realign or provide for existing or remove structures, no fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property. Second by R. Grenier. There was no discussion. B. Knightly requested a roll call of the vote:

* Chairman Bill Knightly – in favor
* Member Scott Davis – in favor
* Member Adrianna Antonopoulos – in favor
* Alternate Member Kevin Hayes – in favor
* Alternate Member Richard Grenier – in favor

The motion passed unanimously.

**1.5 Marc R. Bourgeois**, Trustee of the Marc R. Bourgeois Revocable Trust of 1996

**Application #2022000039** Applicant is seeking a Variance from Article 5, Section 5.3.1 Building Heights, to allow construction of a single-family home with a height of fifty-one feet, one inch (51’1”) where the maximum building height allowed is thirty-five (35) feet, on property located at 40 Grant Road on Tax Map & Lot #2163-036.007 in the Limited Residential (LR) Zone.

Christopher Swiniarski, the attorney representing the applicant, Marc R. Bourgeois, spoke about the application. He noted that the elevations were printed incorrectly on the plans and distributed a revised elevation plan, noting that the tree line and visibility were noted on the plan. The lot slopes North, down towards the lake. C. Swiniarski stated that the height variance requested for this project would not violate basic zoning objectives: the project does not create street congestion or overcrowding of any kind, it is a single-family home on a property that totals approximately eighty-eight acres; the project does not pose any threat or impedance to the health or general welfare of the community, it will be served by private well and septic on the site; and while the Gilford Fire Department does not have a ladder truck, the Fire Department has confirmed that the Laconia Fire Department is automatically dispatched simultaneously to every Gilford call, upon which the Laconia ladder truck is dispatched if necessary and available. He reported that the project is not visible from any point in Gilford, including the waters of Lake Winnipesaukee, within the Town of Gilford.

K. Hayes asked if the applicant planned to request other variances. C. Swiniarski responded that a request for additional variances was unlikely and noted that a fairly complete plan for the request for the building permit was submitted.

J. Ayer noted that there might be other requests due to some of the lacking information, such as building plans and grading plans, and noted that there is a carriage house or garage that they were not clear on the use. C. Swiniarski stated they were within the setbacks and not requiring a height beyond 35 feet on the garage structure and felt they would not be requesting additional variances.

B. Knightly read correspondence he had with Deputy Chief Ober of the Gilford Fire Department about the proposed project, where there was a recommendation for a sprinkler system to be installed in the house, in accordance with NFPA 13D, Standard for the Installation of Sprinkler Systems in One and Two-Family Dwellings and Manufactured Homes, 2013 edition. The size, height, and remote location of the house were cited as reasons for the concern about the requested sprinkler system. C. Swiniarski discussed the compliance of the request.

There were no other questions from the board.

There were no comments from the public (in-person).

There were no comments from the public (virtual).

R. Greiner asked about the Boy Scout property with Round Pond, Hidden Valley Scout Camp/Camp Griswold, which is an abutter. C. Swiniarski stated that he did know who to contact for that but that the property was unbuildable and land-locked.

N. Skantze spoke about the requirements for the sprinkler system due to the height of the building and the memorandum from the Deputy Chief of the Gilford Fire Department and expressed concerns for how that would be enforced. He felt that the Deputy Fire Chief was offering an alternative to allow the variance to be granted. He spoke about the building code and the limits and spoke about the life safety codes, building codes, and the memo from the Deputy Fire Chief.

C. Swiniarski stated he understood the request and did not think it was an issue, and felt it would have been required. There was a discussion about the equipment that Gilford Fire Department and Laconia Fire Department had available. L. Spector-Morgan recommended that the approval of this request could include that the applicant work with the Deputy Fire Chief on fulfilling this requirement for a sprinkler system.

S. Davis spoke about the need for having water available for the sprinkler system. C. Swiniarski noted that there is a pond about one thousand feet from the building. N. Skantze spoke about the residential sprinkler systems and noted that there would be a small cistern required.

There were no other questions from the board.

There were no comments from the public (in-person).

There were no comments from the public (virtual).

Motion by K. Hayes to approve the requested variance in Application #2022000039 for height based on the following: the variance is not contrary to the public interest, the spirit of the ordinance is observed, substantial justice is done for the owner as well as the public, the values of the surrounding properties are not diminished, literal enforcement of the provision of the ordinance would result in an unnecessary hardship. Additionally, the board would require that there is a residential sprinkler system installed and approved by the Deputy Fire Chief and the Code Enforcement Officer and that a dry hydrant be placed near the road from the proposed pond. Second by R. Grenier. B. Knightly requested a roll call of the vote:

* Chairman Bill Knightly – in favor
* Member Scott Davis – in favor
* Member Adrianna Antonopoulos – in favor
* Alternate Member Kevin Hayes – in favor
* Alternate Member Richard Grenier – in favor

The motion passed unanimously.

**1.6 Clark & Theresa Martens**

**Application #2022000040** Applicants are seeking a Variance from Article 6, Section 6.22.3 to allow excavation and/or filling slopes greater than 25% to create buildable area to allow construction of a single-family residence of property located at 28 Briarcliff Road on Tax Map & Lot #266-096.000 in the Single Family Residential (SFR) Zone.

Clark Martens, the applicant, spoke about the history of the lot. This is in a residential district and was approved in 1970 as a buildable lot.

K. Hayes asked about the elevation of the basement foundation. K. Martens responded that it is at grade.

K. Hayes asked about the height of the building, and K. Martins noted it is thirty-five feet. R. Grenier asked about the property surrounding the house. C. Martens responded that there is green space that abuts the lot on three sides and one abutter. C. Martins read a note from his neighbor, John Mattis, at 24 Briarcliff, and stated that he was in favor of the variance.

S. Davis asked about the garage that was on the plans and stated that a variance would be required for the garage. C. Martens responded that the garage is on the concept but was not part of the plans at this time.

S. Davis asked about how the slopes would be managed and the filling in of the slopes. C. Martins noted that there are rock retaining walls around the house.

S. Davis stated he was looking at the retaining wall, downhill from the tower, and asked how those were going to be stabilized. C. Martins stated that this was designed to be stable and noted that the drainage for the driveway was also factored in the plan. K. Hayes stated he would like to see more about how these things would be stabilized, especially the lower slope. The need to ensure the protection of the properties on the lower lot was discussed. C. Martins asked if there was a need to revise the plans, and B. Knightly responded that they were looking for additional information in the application.

S. Davis felt there was a need to have a plan in place. K. Hayes talked about the catch basin near the property line and felt that it might put runoff water onto the abutter. R. Grenier asked if having the plans modified or the engineer present for a meeting would be necessary. C. Martens stated that he understood and that they could come back with a modified plan and that the engineer could attend the next meeting, and S. Davis felt that more information was needed about what the applicant was planning to do to address the questions about elevation and grading. K. Hayes felt that more information was needed on the boulder walls, the reinforced concrete walls, details on the slope stabilization for the turf, and what the boulder walkway detail would be. S. Davis stated he would like to see the catch basin outlet pulled closer to the building setback line and away from the property line, and they should see some kind of outlet control for the end of the pipe to address the running water from the catch basin. S. Davis asked if the driveway was paved, and C. Martins confirmed that it was paved.

K. Hayes moved to table Application #2022000040, Clark & Theresa Martens, until the March 29, 2022 meeting. Second by S. Davis. There was no discussion. The motion passed by unanimous vote.

[ L. Spector-Morgan left the meeting at 8:01 P.M. ]

**2. Other Business**

There was no other business.

**3. Minutes**

K. Hayes moved to approve the meeting minutes for the December 28, 2021 meeting of the Gilford Zoning Board of Adjustment as presented. Second by S. Davis. There was no discussion. The motion passed by unanimous vote.

**4. Adjournment**

S. Davis moved to adjourn. Second by K. Hayes. There was no discussion. The motion passed by unanimous vote.

The meeting adjourned at 8:03 P.M.

The next meeting is scheduled for March 29, 2022.

Respectfully Submitted,

Krista Argiropolis

Recording Secretary