

**GILFORD ZONING BOARD OF ADJUSTMENT
MINUTES
OCTOBER 28, 2008
CONFERENCE ROOM A
7:00 P.M.**

The Gilford Zoning Board of Adjustment met on Tuesday, October 28, 2008 at 7:00 p.m. in Conference Room A.

Present were: Chairman- Andrew Howe, Vice-Chairman- Don Chesebrough, Regular Members- Charles Boucher, Robert Dion, and Alternate Scott Davis.

Absent: Regular member(s). Pat LaBonte.

Also present was Stephanie Verdile Philibotte, Administrative Assistant.

Chairman Howe led the Pledge of Allegiance.

A. Howe appointed Alternate member Scott Davis to replace absent member P. LaBonte.

A. Howe introduced the first case.

1. **Contemporary & Adirondack Exquisite Home Builders/Bruce
Campagna**

Variance request pursuant to Article 5, Sections 5.1.4 and Table 2 of the Gilford Zoning Ordinance, to allow a new single-story garage be located approximately ten (10) feet from the side property line instead of the required twenty-five (25) foot side setback from the property line as required by the Gilford Zoning Ordinance on Tax Map & Lot #242-002.000. The property is located at 122 Varney Point Rd. Left in the Single Family Residential Zone. File #Z08-22.

Doug Hill, attorney representing the application, gave a brief presentation to the Board. He explained the location of the property and the existing dwelling on site meets the required setbacks. The proposal is to install a 12' x 20' garage along the side property line. He noted the proposed garage would not have a side door due to the location of the garage to the side property line. He explained the garage will be located ten (10) feet from the side property line but it will meet the front setback requirement. He explained there will be an increase in the amount of required coverage to the site due to the addition of the garage and cited the letter written by David Andrade, Code Enforcement Officer, explaining the applicant cannot install additional impervious surfaces. D. Hill said the owner has chosen to change the surface of the driveway area to meet the coverage requirements. D. Hill explained they are not asking for a variance from the lot coverage requirements, they are only asking for a variance from the side setback requirements. He submitted additional property information for other homes and structures in the neighborhood that do not meet the setback requirements. He also referred to the previous

variance request to install a garage the Board granted for the Robillard property. He reviewed how the application meets the variance criteria as outlined in the application as submitted.

A. Howe asked when the house was built and D. Hill said two years ago. A. Howe is concerned and frustrated the house was built at the absolute maximum size to meet the side setbacks and now after the house is built, they are requesting a variance for a garage.

Bruce Campagna, owner, said the Town of Gilford would not allow him to build a garage on the lot across the street from the house so his only option was to apply for a variance.

A. Howe asked about the driveway and if it would be a spur from the existing driveway. D. Hill said yes and some pavement will have to be removed in order to meet coverage requirements.

S. Davis asked if the Keefe's would consider a boundary line adjustment (BLA) and why didn't they attach the garage to the house to reduce the impact and amount needed for a variance.

Bruce Campagna, property owner, said there is not enough land to adjust the boundary to make the setback work. He said he worked with D. Andrade and J. Ayer and they could not come up with an answer to adjust the boundary without making both lots non-conforming, as the abutting lot (Keefes) does not currently meet the required land area for the zone. B. Campagna said he could attach the garage to the house but it is less expensive to not attach it and it would not fit into the look of the neighborhood.

D. Hill said there would not be a person door associated with this garage and it will only have a garage door and they would accept that as a condition of approval.

R. Dion asked about the view from the other house across the lake. B. Campagna said the house across the street, is extremely elevated and the proposed garage will not affect the view at all. And the proposed garage will only be 12' high.

Discussion ensued about the height of the house and D. Hill explained the first floor is four feet below grade similar to a split-level house

A. Howe opened up the hearing for public input.

Wayne Swanson, Varney Point resident, he is familiar with the types of homes that have been built on Varney Point Rd. Left over the years and he has an issue with this request as being fair and uniform to other houses in the neighborhood. He referred to other residents that requested to add garages, porches, etc and D. Andrade told them not to bother with a variance because they would not get it approved from the ZBA. He is concerned the house was built without taking into the consideration building a garage from the beginning. He said he is afraid there is favoritism toward people along the water being able to obtain variances versus other residents that were told they couldn't build what they wanted and not to bother applying for a variance.

A. Howe explained they are confined within the limitations of the zoning ordinance and the criteria for a variance but he understands Wayne Swanson's concerns about the garage not being

built when the house was built.

With no other public input, A. Howe closed the public hearing.

Board Deliberations

The Board discussed the application.

S. Davis asked for clarification about the lot across the road and if it was considered one lot and D. Hill said they are considered two separate tax lots.

B. Campagna said D. Andrade told him he could not build a garage on the lot across the street without having a dwelling included.

D. Chesebrough spoke about the size of the lots and how homes were constructed originally and located on the lots due to the amount of land area on Varney Point. He said over the years the sizes of homes being built and replaced have changed and increased. He said there has also been a change in the use of the homes from seasonal to year round use and year round use requires a garage.

S. Davis said he does not feel there is a hardship with this application. He said there is more than enough of a residence on the lot for reasonable use. He said they built the house to meet the setbacks by inches on either side of the house and built the house without consideration for the garage at that the beginning. He said he is frustrated there are not limitations as to what the Board can determine as a hardship. He said all the houses on Varney Point are all non-conforming to setback. A. Howe said he agrees with S. Davis but a garage is a reasonable use of the property.

S. Davis is concerned over applicants maxing out on the buildable area of a lot when they build a house and then coming back later to get a variance without a hardship.

Motion made by A. Howe, seconded by D. Chesebrough, to accept the area variance request to allow a new single-story garage be located approximately ten (10) feet from the side property line instead of the required twenty-five (25) foot side setback from the property line as required by the Gilford Zoning Ordinance on Tax Map & Lot #242-002.000 for File #Z08-22 as having met all the criteria for an Variance as follows:

I. *The variance will not be contrary to the public interest.* Allowing a garage to be built according to court precedent is fair and reasonable use of the property.

II. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

The application does meet the following criteria for an area variance:

An area variance is needed to enable the applicant's proposed use of the property given the

special conditions of the property.
*The benefit sought by the applicant **cannot** be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.*

III. *The variance is consistent with the spirit of the ordinance.* The property is in a residential zone and a garage is conforming as an accessory use

IV. *Substantial justice is done.*

V. *The value of surrounding properties will not be diminished.*

Discussion on the motion.

D. Chesebrough would like a condition of approval to be added:

1) Satisfactory removal of adequate impervious surface to meet the zoning requirements.

Discussion about the state requirements for lot coverage and other regulations being met and B. Campagna said he has met all the state requirements.

A. Howe called for a vote on the motion.

S. Verdile Philibotte polled the members.

S. Davis-Yes

R. Dion-Yes

C. Boucher-Yes

D. Chesebrough- Yes

A. Howe-Yes.

Motion carried with all in favor, the variance request for File #Z08-22 **has been granted**

Wayne Swanson spoke about the approval of the application and said again it is unfair to other residents who wanted to build and they were told they couldn't and the garage should have been built when the house was built.

ADJOURNMENT

Motion made by D. Chesebrough, seconded by C. Boucher, to adjourn the October 28, 2008 Zoning Board of Adjustment meeting at 8:10 p.m. Motion carried with all in favor.

Respectfully submitted,

Stephanie Verdile Philibotte
Administrative Assistant