

Zoning Board of Adjustment
Minutes
December 14, 2023

Members Present: Wayne Flynn, Lenny Knowles, Robert Gargano and Steve Roy.

Members Absent: Keith Roberge

Members of the Public: Michelle Lutz (Alt ZBA Clerk), Melissa Thibodeau, Shane Frederick and Tanner Wheeler

Call to Order: Meeting was called to order at 6:30pm by Chairman Wayne Flynn.

Minutes of September 14, 2023: On a motion from Robert Gargano with a second by Lenny Knowles, all members voted to approve the minutes as presented.

Case #10-2023 – Paul Thibodeau - Variance – Article IV, Section 4.01C

Chairman Flynn read the application acknowledging that legal public notice was given on 12/7/2023. He also informed the applicant that because there were only 4 members present, the applicant could request to have the hearing with a full 5-member board. The applicant opted to continue with a 4-member board. Melissa Thibodeau explained that she was requesting a variance to permit a deck that does not meet the setback requirements. They are in the process of selling the house and during the process it was found that the deck was built without permits. One of the conditions of the sale was that they obtain an after-the-fact permit. It was at that point that they found out they could not be issued a permit for the deck without a variance because the deck does not meet the setback requirements for Residential A. The deck was built in the Spring of 2022 without a contractor. Part of the reason the deck was built in that location was because there is an oil fill-pipe that is approximately 80+” off the ground and there was previously just a set of stairs with a small platform to reach that fill pipe. They built the deck and knew they needed something to be able to access the pipe and added that area to the deck instead of just a new platform. Robert Gargano explained that he had contacted and spoken with the applicant and visited the site, took pictures of the deck as it exists and sent those pictures to the other board members. He felt that the application didn't clearly state that the deck was already built and thought that the application was to build a new deck, which is not the case. Steve Roy questioned if the deck is complete as the pictures show it may not be complete. Ms. Thibodeau explained that deck rails were being installed as a request from the buyer. The board discussed developing a checklist for applicants that would help address certain questions. Chairman Flynn asked if there was anyone who wished to speak in favor of the application. Seeing none, he asked if there was anyone who wished to speak in opposition. Mr. Frederick, who is the abutter to the rear of the property, originally opposed the deck as he was under the impression that this application was for a new deck to be built. He removed his opposition when he realized that the deck was already existing and not being expanded. Steve Roy made a motion to have the building inspector look at the deck before going any further. He didn't feel comfortable approving a deck that hadn't been inspected. The secretary reminded the board that the Town of Gorham does not currently perform inspections on residential structures other than multi-unit structures. Mr. Gargano stated he believed that it was a requirement of the building code to do inspections and the secretary explained that he needed to have that conversation with the Board of Selectmen. The motion did not receive a second. The board then moved to the Finding of Facts which are:

- 1) The deck is already in existence.
- 2) The applicant is applying to make everything legal and the property saleable.

- 3) The applicant has left a portion of the proceeds of the sale in case the buyers need to make any corrections.
- 4) The building is actually two buildings connected as one and spread across the property line on 2 separate lots which affects where they can build anything.

Chairman Flynn asked for a motion, when none came, Chairman Flynn made a motion to grant the application which received a second from Lenny Knowles. The board members completed the work sheets and Chairman Flynn called for a roll call vote:

Steve Roy – Yes Lenny Knowles – Yes Robert Gargano – Yes Wayne Flynn – Yes

The applicant was informed that the variance was granted and that the abutters had 30 days to appeal the board's decision.

New business –

Chairman Flynn explained that board members could go look at properties but that they could not discuss the application with an applicant. He also explained that by sending pictures to other board members, it gives the appearance that the board is having a discussion without the applicant which the board cannot do. The board is a quasi-judicial board and should not discuss any projects and board members should think of themselves as a judge. By sending the pictures to other board members it is a form of conversation. The board discussed having a work session to develop some forms that will help applicants supply more information that the board may need. We will schedule one in January 2024 to develop forms/checklists and review the Rules of Procedure.

Old Business: None

Public Comment: None

Adjourn: On a motion from Robert with a second from Lenny, the board voted to adjourn the meeting at 7:20



Respectfully Submitted,
Michelle M Lutz
Zoning Board Clerk