

**Town of Goshen
Zoning Board of Adjustment
Minutes of October 2, 2013**

Members Present: Doug O'Clair, Chair; Ray Porter, Vice-Chair; Mike Chilson, Keith Hall; Mark Rissala

Chair O'Clair called the meeting to order at 7:05 p.m.

MINUTES

The Board reviewed the minutes of September 11, 2013.

Mr. Porter made a motion to accept the minutes of September 11, 2013 as written. Mr. Rissala seconded the motion. All in favor.

UNFINISHED BUSINESS

None

PUBLIC HEARINGS

Guildhall Sand & Gravel, LLC – 44 Lear Hill Road – Tax Map 204 Lot 15 – Variance

Richard Fraser, representing Guildhall Sand & Gravel, LLC, advised that the application fee will be paid by the applicant by the end of the week. The Board was agreeable and Chair O'Clair advised Mr. Fraser that the Board's decision this evening will be contingent upon receipt of the fees for this public hearing. Chair O'Clair noted that the public notice and abutter notification was satisfied per RSA 676:7; he read the public notice and explained the meeting protocol to the members of the public present.

You are hereby notified of a Zoning Board of Adjustment hearing to be held on Wednesday, October 2, 2013 at the Goshen Town Hall. At 7:15 p.m. Guildhall Sand & Gravel, LLC for property located at 44 Lear Hill Road Tax Map 204 Lot 15 will apply for an area variance from Section III.C. of the zoning ordinance to permit a partial annexation of the subject property, thus resulting in the lot size less than three acres.

Mr. Fraser reviewed the three sets of plans included in the application. He explained that the first plan sheet was drawn in 1994 which illustrates the three properties associated with the Davis excavation site, including subject lot, aka the Keach lot, at 24 acres. The second plan sheet is a copy of the mining plan which illustrates the Keach lot at 24 acres and the adjacent lot at 44.5 acres, where the bulk of the excavation occurs. The applicant would like to move the boundary line between the Keach lot and the excavation lot to result in the lot layouts as illustrated on the third plan sheet; the Keach lot would be 1.4 acres, and the excavation lot would be 67.1 acres. A

three-acre minimum could be met on the Keach lot if the lot was laid out in such a way that would create a long sliver of unusable land along the southerly bank of the Sugar River or up an undevelopable steep slope. Either way, the building location and usable land would be same as a conventional-shaped lot of less than three acres. Since the Goshen zoning ordinance does not allow for a lot size less than three acres, the applicant is required to file for a variance. Mr. Fraser read through the criteria supporting the variance request.

1. The proposed variance would not diminish surrounding property values because: *The area within the property has, over the span of many years, been used as a residential property. Most recently, a building permit was issued in 2003, whereby a mobile home was located on the site. A new 3-bedroom septic system was approved by the NHDES and subsequently installed. Also, a 400' deep artesian well was installed. It should be noted the property located east of the subject property measures .36± acres. The use/size of the property will be very similar to other lots in the neighborhood; therefore there will be no diminution of surrounding property values.*
2. Granting the variance would not be contrary to the public interest because: *The ensuing site will increase the town's tax base and tax revenues (based on a waiting buyer with plans to construct a single family home), and will not alter the essential character of the locality. The proposed decrease in lot size will not cause a threat to public health, safety, or welfare.*
3. Denial of the variance would result in unnecessary hardship to the owner because:
 - a. The following special conditions of the property make and area variance necessary in order to allow the development as designed. *The area under consideration is primarily bordered to the north by the south branch of the Sugar River and to the west by a haul road that services the Davis excavation site. It is important that the haul road remain in whole with the Davis excavation site, without encumbrances (such as a ROW). It's only a matter of time before the Davis site is developed for another use and any threat to the use of the roadway might jeopardize such development. Increasing the size of the subject project area along a slip strip of land between the river and the haul road, and continuing to the north serves no purpose but to make an absurd shaped 3.0 acre lot.*
 - b. The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden because *the location of the site meets all ordinance related front, side and rear setbacks, together with the required road frontage. Moving the area to west (uphill from the proposed location) would preclude development based on steep slopes. Keeping in mind the site has historically been used for residential use, and that the septic system and well are located within the footprint, it is not possible to develop elsewhere without imposing an undue financial burden.*
4. Granting the variance would do substantial justice because *the proposed lot configuration is reasonable suited for residential purposes. Basic utilities are currently in place. The town's tax base and revenues will increase as a result of granting the variance. This added town revenue is a benefit to the townspeople. In summary, there is nothing to suggest that any loss to the applicant is outweighed by a benefit to the general public, therefore granting the variance will do substantial justice.*

5. The proposed variance is not contrary to the spirit of the ordinance because *the enacted zoning ordinance has made reasonable consideration for the character of the neighborhood and suitability of particular uses. For all reasons previously articulated, the request for an area variance is not contrary to the spirit of the ordinance.*

Chair O'Clair opened the meeting for public input. Being no public input or questions, the meeting was closed to the public and opened to questions and comments from the Board.

Chair O'Clair commented that a variance needs to be consistent with the spirit of the ordinance. The intent of the three-acre minimum lot size was to prevent congestion. In this case, the property is located in the village district which has few, if any, three-acre lots. Even if this lot was configured to meet the three-acre lot size, the location of the house would still be in the same place due to the lay of the land.

Mr. Chilson asked why the adjacent lot was able to be developed with less than three acres.

Chair O'Clair explained the lot Mr. Chilson is referring to was created and developed before the three-acre minimum zoning was established.

Mr. Porter referred to the maps and commented that extending the lot to meet the three-acre minimum would not make a difference in the building location and therefore not affect building density.

Mr. Fraser stated that there is an existing well and state approved septic already in place.

Chair O'Clair commented that there was a residential structure there approximately 10 years ago.

Mr. Porter commented that he does not have a lot of questions since the presentation was direct and thorough. He agreed that extending the lot line down the bank of the Sugar River to satisfy the three-acre zoning was contrary to the spirit of the ordinance. That would not give other options for the placement of a house and therefore not reduce congestion.

Mr. Fraser pointed out that this proposed lot size is similar to the other lot size in this neighborhood.

Mr. Rissala and Mr. Hall were in agreement with the opinions of the other Board members.

Mr. Porter made a motion to grant the area variance from Section III.C. of the zoning ordinance to permit a partial annexation of the subject property, thus resulting in the lot size less than three acres based on the information and testimony received. Mr. Chilson seconded the motion. All in favor.

NEW BUSINESS

COMMUNICATIONS

OTHER BUSINESS

Secretary Salary

Chair O'Clair proposed to the Board that they Board recommend to the Board of Selectmen that the recording secretary's pay rate for the Zoning Board of Adjustment be raised to be consistent with that of the hourly rate of the Planning Board secretary at \$13.00/hour. All Board members were in agreement.

Mr. Chilson made a motion to recommend to the Board of Selectmen to raise the ZBA recording secretary's pay rate to be consistent with that of the Planning Board. Mr. Porter seconded the motion. All in favor.

Zoning Amendments

Chair O'Clair informed the Board that the first public hearing on the proposed zoning amendments for March 2014 will be held November 14. The proposed amendments are available on the Town's website.

Mr. Chilson made a motion to adjourn. Mr. Hall seconded the motion. All in favor.
Meeting adjourned at 7:45 p.m.

Next meeting: November 13, 2013

Respectfully submitted,

Linda Plunkett
Recording Secretary