

**Zoning Board
Goshen, NH
Minutes of November 10, 2021
FINAL APPROVED**

Attendance (*quorum* = 3): Alicea Burse (Chair), Ray Porter (Vice-Chair), Judy (Dunn) Martz, and Mike Sullivan

Meeting called to order at 7:01pm

Guest (s): Edward Herrmann III, Tamara Herrmann

Review of Minutes from October 13, 2021

A change was suggested to page one under the heading 144 Rand Pond Road, second paragraph. The change was made as follows, *“The board reviewed the application, abutter letter of support from Judy and Phil Gagnon, heard from Mr. JJ Tremblay ~~who is an abutter~~ who is a neighbor in close proximity, also in support of the project, reviewed a letter authorizing Greg Grigsby and/or Chris Kessler of Gradient, PLLC to act on behalf of the property owners as agents, and the design drawings that were presented.*

Ray Porter motioned to accept the meeting minutes from October 13, 2021 ‘as amended’. Judy (Dunn) Martz seconded the motion. All were in favor, minutes approved.

144 Rand Pond Road (Property Map 209, Lot 73)

The Herrmann’s are seeking a variance to the Goshen Zoning and Building ordinances section VI.D so that they may tear down the existing structure and rebuild with an increase of approximately one thousand (1,000) square feet. The new structure will require a variance for reduced setbacks to between eight (8) feet and twenty-eight (28) feet from the property line.

Specifically, the requested setbacks will be:

1. along Rand Pond Road on the northerly side of the property a reduction to 28.8 feet;
2. on the easterly side of the property abutting the Gagnon property a reduction to from the setback to five (5) feet;
3. along the westerly side of the property abutting the Porritt property a reduction of the setback to seven feet, eight and three quarters inches.

The board reviewed the map. After reviewing the map and the application, the board determined that an amendment to the application was needed. Chair Bursey asked the Herrmann’s to resubmit their variance request and include language that would address the variance for the town right-of-way to the garage from the center of the road. The Herrmann’s will resubmit this application electronically. The request for an amended application is only to clarify that the northerly setback reduction, is a reduction to the right-of-way and not to an abutter’s property line. The maps presented already show this reduction.

Mike Sullivan asked the Herrmann’s when the existing slab was constructed. The Herrmann’s replied that it was there before they bought the place.

Mike Sullivan expressed concern regarding the expansion and stated that he did not believe that creating a more non-conforming lot was a good idea. He does not want to see the buildings in that area become larger and not hold to the small charm and character of the area in which they are built. He was concerned that by allowing such expansion, the board is setting a precedent for future homeowners that would have a negative impact on the town. He suggested having some more time to review the documents presented and to view the lot.

Additional discussion was had regarding the moving of the septic tank. The board determined that based on the Goshen Zoning and Building Ordinances, that septic plans for this lot require state approval only and additional requirements are not needed from the Zoning Board.

The Board reviewed the clarification from the NHMA about restrictions and considerations that should be put on the property regarding merger and if the road needs to be disturbed in the future for the leach field needs. This clarification addresses a question raised by Mr. Sullivan in the previous meeting (see ZBA Minutes October 13, 2021). The Board discussed that a voluntary merger is not allowed per RSA 674:39-a as the lots are not contiguous. The Board also discussed new documents that were provided showing that a sleeve under the road had been put in during the 80's and there should be little reason to disturb the road. However, if the road needed to be altered to fix a septic issue, the Board of Selectman stated that as long as the road is returned to the same or better condition, there would be no problems (see Board of Selectman's minutes from November 8, 2021 to see full discussion).

Mike Sullivan had additional concern regarding the lots and merging of the lots in the future. He was concerned that future developments may take place where he believes they shouldn't. Tamara Herrmann stated that the two lots are separate and are billed separately for tax purposes. The Hermann's noted that an easement would be triggered should the lot ever need to be sold that would protect the leach field and ensure a continued and properly function septic system.

The Board continued discussion and Mike Sullivan once again expressed concern that the process of reviewing the material presented was not long enough and that time should be taken by the Board to review all the material and come up with a decision that is not rushed. Ray Porter made mention to the fact that previous Boards had a much different process and that the current Board has adopted a more detailed review process so that proper discussion can be had.

Chair Burse reminded the board that although the process may seem to be moving along quickly, the Board still needs to conduct a public hearing where input from the public and abutters will be given to the Board. After which, a vote on completeness of the application could occur. At that time, the Board can further ask questions to the applicants or their representatives and to the abutters as needed. Ray Porter gave a brief explanation of the definition hardship, stating that hardship applies to the land and not the landowner and he addressed what the role of the Board is when determining a vote. Mike Sullivan asked if creating a more non-conforming lot was really the best way to approach the situation. He felt that in creating a lot that is more non-conforming sets a bad precedent for future developments.

The board agreed to go into a continuance of this meeting and meet at the project property at 144 Rand Pond Road on Saturday, November 13, 2021 at 8:00am.

The Herrmann's left the meeting.

Request for Support Letter

Chair Bursey presented the request from Bonnie Belden, who is working for the Board of Selectman, and is seeking a letter of support for a Land and Water Conservation Fund grant that she is writing. The grant would potentially bring in fifty thousand dollars (\$50,000) to the Town of Goshen toward the creation of the discovery trail and family area that the Library Trustees are working on.

The Board discussed the request and concluded that although the members of the board may support this project as residents, the Zoning Board could not take a formal vote of support because the request goes beyond the scope of the Zoning Board duties and would not be an appropriate action of the board.

Zoning Board Budget

The Board discussed the 2022 Zoning Board budget. There are no substantial changes that need to be made and the Board supports the purchase of a laptop for use by the secretary. Additionally, the Board is happy to share a computer (laptop) with the Planning Board even if among different secretaries in the future. The budget will be submitted by December 15, 2021 and it will then be reviewed by the Budget Committee during the first few months of the 2022 year.

Broadband Internet Update

Consolidated Communications is currently working on laying the fiber lines for the broadband expansion. No actions were needed.

Board Resignation

Ron Parenteau sent a letter of resignation to the board. Due to unforeseen circumstances, he can no longer continue as a board member at this time. The board regrettably accepts his resignation.

Driveway Permit Waiver

The board will continue to research and review these documents and make possible changes. No changes or actions were made at this time.

Membership Discussion - Update

Additional alternates and board members are needed for the Zoning Board of Adjustments. If anyone is interested in becoming a member, please stop by a meeting on the second Wednesday of any month. This will remain a standing item until filled.

Other Business

- The next regular meeting will be the second Wednesday of December - December 8, 2021.
- **Covid-19 Concern:** Member, Mike Sullivan expressed his concern regarding the increase in cases of Covid-19 and stated that he may not feel comfortable attending the meetings if a large amount of people attend and masks are not enforced. Chair Bursey will bring the issue before the Board of Selectman.
- **163 Mummery Road:** The Board discussed a request for information regarding a camp located on approximately an acre of land at 163 Mummery Road. Note, there is no application before this Zoning Board at this time. The owners had questions regarding buildability. After some discussion, the Board agreed that if Zoning and Building Ordinances were followed and the setbacks were correct, the issue

of buildability would be one for the Building Inspector. However, if a building were to encroach on setbacks, slopes, or other areas addressed in the ordinances, then an application would need to be submitted to the Board. Additionally, the Building Inspector would also have to be made aware of any plans for the area and their permitting process followed.

- **Bike Path Discussion:** No discussion currently. This will remain a standing item.

Standing Items:

- Rand Pond Variance
- Mask Mandate - Update
- Broadband Internet Discussion - Update
- Driveway Permit Waiver - Pending
- Bike Path Discussion - Ongoing
- Member Discussion - seeking alternates and full-time members - Ongoing

Ray Porter made a motion to continue this meeting off site on Saturday, November 13, 2021 at 144 Rand Pond Road. Mike Sullivan seconded the motion. All were in favor; discussion ended at 8:15pm.

Zoning Board
Saturday, November 13, 2021 (continued from November 10, 2021)
144 Rand Pond Road

Attendance (*quorum* = 3): Alicea Burse (Chair), Ray Porter (Vice-Chair), Judy (Dunn) Martz, and Mike Sullivan

Meeting called to order at 8:01am

Continuance of 144 Rand Pond Road Variance (Property Map 209, Lot 73)

The Board reviewed the setbacks, specifically, the requested setbacks along Rand Pond Road on the northerly side of the property, a reduction to 28.8 feet in the right-of-way; on the easterly side of the property abutting the Gagnon property, a reduction to from the setback to five (5) feet; along the westerly side of the property abutting the Porritt property, a reduction of the setback to seven feet, eight and three quarters inches.

The board reviewed the proposed maps, checked the property lines that are being affected, looked at the placements of the sheds and reviewed all the presented application materials and requests for the proposed project.

There was some discussion regarding the proposed variance. Mike Sullivan expressed his concern that by allowing this project to go forward, the board was setting another precedent for future builds in the area around Rand Pond that he believed to be a detriment to the charm and character of the area. He believed that the project would encourage “McMansion” builds and he felt strongly against that type of expansion for Goshen and Rand Pond.

The Board discussed the applicants reason for requesting a variance and Ray Porter mentioned that as a Board, they are tasked to weigh the property owners right, physical characteristics of the property, and to look at the

bigger picture. Mike Sullivan believed that the five reasons that were given in the application were written to appease the Board and to make everyone feel good about what should have never been done in the first place.

The Board discussed what constitutes conflict. Ray Porter, living on Rand Pond, was asked if he felt that this would be a conflict of interest for him; Ray Porter is not a direct abutter and lives a quarter of a mile or so away from the project site.

The Board discussed the leach field on the property across the street which is also owned by the Herrmann's and is a part of this project. Mike Sullivan voiced concern regarding the precedent this was setting for the future. He believes that the best way to approach this project would be to stay in the footprint of the original house. Ray Porter addressed the scope of authority for the Zoning Board. He stated that the job of the Zoning Board is to look at the plan that is in front of them, not hypothetical plans. Mike Sullivan believed that the reason for this expansion was for future monetary gain. Ray Porter addressed hardships and stated that a hardship is based on the physical characteristics of the lot. He mentioned that the board must be fair to the property owner and that while personal opinion is important, it must be backed with factual evidence and if the property owners fulfill what is needed to meet the town and state regulations, then the board has the responsibility to grant them their request. He mentioned that hardship does not apply to the living conditions, but the physical characteristics of the property.

Chair Bursey, Ray Porter, and Judy Martz discussed that they like to hear from the abutters in the Public Hearing for more information. The process of a Public Hearing was discussed and Chair Bursey mentioned that if more information is needed, the Board is permitted to ask those questions. The Board reviewed that they are tasked with making sure that there is adequate access to the road, issues of septic and water are addressed, and setback requirements, accessibility and other safety measurements are met. They addressed that they are tasked to review the restrictions of the land in accordance with regulations. Ray Porter mentioned that the Board cannot superimpose their opinions without factually based information.

Judy (Dunn) Martz motioned to notify abutters and begin the Public Hearing process. Ray Porter seconded the motion. All were in favor.

The Public Hearing will be Wednesday, December 8, 2021 at 7:00pm at the Town Hall. Abutter notifications will be sent out within the week and public announcements will be posted in all Town verified locations.

The Board spoke to each other and Ray Porter mentioned that having diversity of opinion within the Board members was a good thing but that it was important to respect each other in the process. The Board members expressed their concern with each other. Mike Sullivan stated that he felt dismissed, especially from Judy Martz. Judy Martz, Alicea Bursey, and Ray Porter stated that they felt like Mike Sullivan had put words in their mouths on a few different occasions. The Board agreed to continue learning and working past their differences.

Ray Porter made a motion to adjourn. Judy Martz seconded the motion. All were in favor; meeting adjourned at 9:15am.

Respectfully Submitted,
Melissa Salinardi
Recording Secretary
Zoning Board
Goshen, NH