Members Present: Peter Grote, Bess Andrews, Phil Krill, and Susan Retz

Others Present: Allan Clark (Building Official)

A working meeting of the Franconia Zoning Board of Adjustment (ZBA) was held on Friday, May 17, 2019, at the Franconia Town Hall.

The meeting was called to order at 3:00pm by Peter Grote.

The Board reviewed the minutes of the May 9th work session. It was noted that the date and time of the meeting at the top of each page needed to be corrected, and the meeting began at 5:45pm and not 5:00pm. Susan Retz made a motion to accept the minutes as corrected, second by Phil Krill. Motion passed unanimously.

The Board discussed the need to have a Planning Board member appointed as a representative to the ZBA. Bess stated since the Planning Board is the group that initiated the changes to the zoning regulations it would benefit the ZBA to have an understanding of what their thinking and insights were for those changes. Peter stated he had not heard back from Thad on who would be appointed. The Board was in agreement that communication between the two boards is essential.

The Board discussed the need to have an alternate on the Board. Phil suggested asking Alicia Shambo to join the Board. The Board agreed to have Phil contact Alicia to see if she would be interested. Phil made a motion to invite Alicia Shambo to become an alternate member of the ZBA, second by Peter. Motion passed unanimously. Susan stated the motion doesn’t matter because it is up to the Select Board to appoint people to the Board.

The Board had a brief discussion regarding Frank Clulow’s absence from ZBA meetings due to health issues and the possibility of a change in status to alternate member. Phil suggested the Board postpone any decision until Frank returns in June and then a decision could be made.

Peter stated he wanted to discuss the application and approval process and read RSA 676:5 I, II(a), II(b), and IV - Appeals to Board of Adjustment (copy attached). Allan stated this RSA deals with an appeal of a decision, not an application for a variance or special exception. He also stated that in 10 years of being the Building Official, no one has appealed one of his decisions.

Allan stated there are three things the ZBA can do: 1) review and overturn a decision that he makes; 2) review an application for a variance where you have to meet the criteria set by law; and 3) a special exception where there are very specific requirements that you must meet that are listed in the zoning.

Bess asked Allan where it describes what the Board’s responsibilities are related to a special exception and if the Sherburns have reapplied. Allan stated they have reapplied and RSA 674:33, Section IV, Powers of the Zoning Board of Adjustment, describes their responsibilities related to a special exception (copy attached).

Allan stated the Sherburns need three variances and a special exception. They need a variance because the building is not attached. They need a variance because they don’t have a door between the two dwellings. They need a variance because the zoning allows for 750 square feet and they want 900 square feet. They have submitted a variance application for each one of those and each one needs to be acted on individually. If the Board grants all three variances, then you must act on their special exception and the requirements for that are in the zoning.

Susan asked if the applications have been received yet. Allan stated the applications have been submitted and are on his desk awaiting his review.

Bess raised concerns over the change in the zoning regarding the requirement that the buildings be attached as well as the lot size not meeting the current zoning requirements. Allan stated the prior zoning was not very clear on whether an Accessory Dwelling Unit (ADU) had to be attached. The new zoning is very specific in that it must be attached with a common door and it mimics the state law that enables an ADU. Allan also stated that the size of the lot is not an issue according to the zoning because an ADU is allowed on any size lot as long as you can meet the setback and septic requirements.

The Board had a brief discussion regarding “the spirit and intent of the ordinance” and not wanting to set a bad precedent which would allow other unattached ADUs. Allan stated all applications need to come before the ZBA and the Board would make a decision based on each individual situation. He also stated this situation is not contrary to the public interest because the zoning wants to encourage this; and it isn’t against the spirit of the ordinance because you can do it on any existing lot regardless of the underlying zoning.

The Board reviewed and discussed the new variance application. Phil made a motion to accept the new form, second by Susan. Motion passed unanimously.

Peter stated that the By-laws need to be updated and requested each member to review them and be prepared to discuss that at the next meeting.

After a motion by Susan, second by Phil, the meeting adjourned at 4:15pm.

Respectfully transcribed,

Carol Wills