**May 30, 2019 Franconia Zoning Board of Adjustment 6:00pm**

**Meeting Minutes**

**ZBA Members Present:**  Peter Grote (Chair), Bess Andrews, Phil Krill, Susan Retz, Brian Williams

**Others Present:**  Stanley and Lorie Sherburn, applicants; Allan Clark, building official for the Town Franconia; Eric Meth, member of the public.  No Planning Board representative attended the hearing.

A meeting and public hearing of the Franconia Zoning Board of Adjustment (ZBA) was held on Thursday, May 30, 2019, at the Franconia Town Hall.

The meeting was called to order at 6:00 pm by Chair Peter Grote.

**Public Hearing:**

Applications for three variances (Article 13, Section 8-A, 8-B, and 8-G) and special exception (to Article 3, Section 13) related to an Accessory Dwelling Unit (ADU)

The minutes of the May 17, 2019 meeting were reviewed by ZBA members.  Peter amended the first sentence in paragraph seven to say: “Peter stated that he wanted to discuss the application and approval process and read: RSA 676:5; a statute under Administrative & Enforcement Procedures.” He also added a comment to that paragraph stating: “Alan Clark’s decision was supported by independent counsel.”

The minutes from May 17 were approved as amended on a motion by Phil, and a second by Susan.  All voted in favor except Brian, who did not vote as he was not present at the May 17 meeting.

All attendees introduced themselves and explained their roles. Peter asked if there were any conflict of interest.   There were none.

A motion was made by Phil to waive the reading of the applications and the report on how public and personal notifications were made.  Susan seconded it; all voted in favor.

The applicants stated their case as described on the variance and special exception applications.  (Copies are available at the Town Hall and on the town web site.)

The ZBA members had no questions.  No other persons in favor of the case were present to speak.  No persons opposed to the case were present to speak. No abutters were present to speak. There was no written opposition.  For the public record, Alan mentioned his letter of May 23 to the ZBA explaining/clarifying the powers of the ZBA and its role as it pertains to the Sherburn applications.  The letter is available at the Town Hall and on the town website.

**Variance Application #1**

Peter read aloud variance application #1 related to the requirement that the ADU must be attached to the main dwelling (Article 13, Section 8-A).  The applicants reiterated their case as described on the application for variance #1. They wish to convert an existing structure with a working bathroom, and with water, sewage, electricity and heat already installed.  They have invested considerable funds in the building and it would a financial hardship to tear it down and rebuild it or move it.

The ZBA members discussed the application’s five facts supporting the need for the variance as described on the application and agreed that the five criteria were met.  All members supported the need for the variance. Phil moved to grant the variance; Susan seconded it; and all voted in favor.

**Variance Application #2**

Peter read aloud variance application #2 related to the requirement that there be a door between the ADU and the main dwelling (Article 13, Section 8-B).  The board discussed that this requirement was moot since the variance for an unattached ADU had already been granted. The ZBA members discussed the application’s five facts supporting the need for the variance and agreed that all five supported it.  Brian moved to grant variance #2; Phil seconded it and all voted in favor.

**Variance Application #3**

Peter read aloud variance application #3 related to the request that the applicants be allowed to increase the size of the ADU from the maximum size of 750 square feet to 917 square feet (Article 13, Section 8-G).  The applicant described the need for the additional square footage to allow for a small kitchen/living area and laundry facilities in the ADU. The ZBA members discussed the application’s five facts supporting the need for the variance and agreed that all five supported it.  Susan moved to grant the variance; Brian seconded it; and all voted in favor.

**Special Exception**

The ZBA moved on to discuss the application for a special exception (Article 3, Section 13), which lists seven conditions that must be met in order grant a special exception.  Results of the ZBA’s discussion are below:

A. This requirement is waived due to granting of Variance #1 (attached ADU requirement)

1. This requirement is waived due to granting of Variance #2 (door requirement)
2. The lot has appropriate setbacks and the applicants have two parking spaces attached to the ADU.
3. The applicant has the met water and sewer requirements.  He has an approved septic plan to accommodate the increase in bedrooms.  A copy of the plan is on file at the Town Hall.
4. The ADU will be owner occupied by the Sherburns and used as their principal place of residence.  The zoning ordinance requires that both the primary residence and ADU must remain in common ownership.  Transfer of either dwelling unit to condominium ownership is not permitted. (Zoning Ordinance-2019). The applicants have stated that, as owners, they intend to occupy the ADU and that the two dwelling units will not be sold separately under the condominium form of ownership.

Alan added that the town has no mechanism in place to ensure that an ADU and its principal dwelling remain in common ownership and that one of the dwellings is always owner occupied as a primary residence.  He reported that, as the Building Officer, he will need to police this until the town puts another mechanism in place.

1. All agreed that the building will maintain aesthetic continuity with the principal dwelling.
2. This requirement is waived due to granting of Variance #3 (size requirement)

Phil moved to grant the Sherburn’s special exception. Susan seconded it.  All voted in favor.

Peter read a statement summarizing what occurred at the meeting, see attached.

There was no further discussion.

Alan brought up that there are two more applications coming before the ZBA in the next few weeks:  one related to a Mittersill side setback issue, and one requesting that the Iron Foundry be able to waive flood zone requirements to put down piers for a deck that the owners would like to add to their building.  Alan will send the ZBA a letter with the facts and findings on the two applications before that meeting.

The meeting was adjourned at 7:40 pm on a motion by Brian and a second by Susan.  All voted in favor.

Respectfully submitted,

Bess Andrews

Member, Franconia Zoning Board Adjustment