Franconia Zoning Board of Adjustment

Continued Hearing and Meeting Minutes Draft showing corrections

Members Present: Peter Grote (Chair), Phil Krill, Susan Retz, Brian Williams and Alicia Shambo.

Others present: Dean Cibotti, Bob Tortorice and Allan Clark.

A continued hearing of the July 16, 2019, public hearing and a meeting of the Franconia Board of Adjustment was held on Thursday, September 17, 2019, at Town Hall. Applications for three zoning variances for construction of a home at 177 Alpen Hill Road in Mittersill; Tax Map 18, Lot 14 had been requested. The variances relate to the recently revised Franconia Zoning Ordinance: Article III, Section 3; Article IV, Section 5; the Town’s Master Plan; and NH law.

**CONTINUED PUBLIC HEARING:**

The continued hearing was called to order at 5:35 p.m. by Peter Grote, Chair. Abutters had been notified by Carol Wills, the Town Clerk. No abutters were present.

Members had an opportunity to visit the Lot 14 before the continued hearing.

Dean Cibotti (Applicant), the current owner of both Lot 13 and Lot 14 in the subdivision introduced himself. The Applicant submitted a document proposing an easement that he stated would provide permanent off-street parking for two additional cars on the existing driveway of Lot 13 for future owners and occupants of Lot 14.

Sections of the Tax Map (attached) were shown indicating the relatively low building density on upper end of Alpen Hill Road where Lot 13 and Lot 14 are located. The ZBA considered the strict letter of the recently revised setback rules as well as the likely traffic density in this section of the Mittersill subdivision.

After a motion by the Chair, second by Phil Krill, members voted to grant the 35-foot centerline set-back variance. The vote was unanimous.

Susan Retz, an architect, asked the reason for a side and back setback variance of five feet. The Builder explained that his plans had been modified so that a corner of the building would be set back between five and ten feet from the property line. He stated that only one corner of the new building would come within that five to ten-foot range.

The Building Official asked questions about storm-water run-off, given the proposed size of the new structure, the shape and size of Lot 14, (see attached tax map) the slope of the land and the fact that trees would be removed. The Applicant and Builder explained that dry-wells would be installed to help mitigate storm-water run-off.

Members discussed two “undesignated lots” located on a steep slope (identified by their respective road frontage sizes), road traffic, the revised building plan, the shape of Lot 14, the slope of the land and the proposed storm-water mitigation plan. The Chair asked if there were further questions or issues. No further issues were raised.

After a motion by the Chair, second by Phil Krill, members voted to grant the five-foot side and back setback variance. The vote was unanimous.

The Board discussed the parking easement. The Applicant stated that he would provide a permanent easement allowing parking for two cars for future owners of Lot 14, provided that such cars would be aligned front to back when parked.

Members asked if future occupants of both households — Lot 13 and Lot 14 — would have unrestricted access to park four cars in the existing Lot 13 driveway. The Applicant claimed that his driveway had space for parking four (4 or more) cars when aligned front to back and parked in pairs.

Board members and the Building Official were concerned that the proposed parking arrangement would restrict access and encumber the movement of cars driven by future parties occupying the new home. A discussion followed. The Building Official, the Applicant and members did not reach a consensus on the wording of such an easement. The Applicant then added that the Lot 13 driveway still had some room to expand.

Brian Williams stated that the easement is a concern. In his opinion, the proposed easement might subject the Town to a lawsuit.

The Applicant replied that easements are not uncommon in thickly settled urban communities. He added that his road in Bedford had an easement and indicated that issues are often resolved between or among the parties.

With no further matters to discuss, the Chair read a summary statement. After a motion by the Chair, second by Phil Krill, the hearing was adjourned at 6:50 p.m.

**ZBA Meeting**

A scheduled meeting of the ZBA was called to order at 6:52 p.m. by the Chair.

The minutes of the July 16, 2019, hearing were reviewed and approved after a motion by the Chair and a second by Phil Krill.

Peter asked the Board to consider a by-law change that was discussed at the meeting on July 16, 2019. In 2004, George Roorbach had amended the ZBA by-laws by adding Section 8 which reads:

*Planning Board Representative: One of the five regular members (of the ZBA) shall be a representative of the Planning Board.*

The ZBA currently has five Board members and one alternate member. Peter recommended that the word “shall” be replaced with the word “may”.

Peter made a motion to amend Section 8 of the Franconia Zoning Board of Adjustment By-Laws to read as follows:

**Planning Board Representative: One of the five regular members may be a representative of the Planning Board.**

The motion was seconded by Brian Williams with all members voting in favor.

The Chair made a motion, seconded by Phil Krill to adjourn at 7:02 p.m.

Peter Grote, Chair

October 18, 2019

Franconia Zoning Board of Adjustment