

June 30, 2020, 4:30 pm

**Franconia Zoning Board of Adjustment  
Hearing and Meeting Minutes**

**ZBA Members Present:** Peter Grote (Chair), Phil Krill (Vice-chair), Susan Retz, Brian Williams, Alicia Shambo.

**Others Present:** Applicants Tim Klotz (agent) and Joel McKenzie (property owner), Rick Gaudette, Allan Clark (Building Inspector), Brandon Dexter, Kim Cowles, Joyce Krill, Jenny Monahan.

A public hearing and meeting of the Franconia Zoning Board of Adjustment (ZBA) was held on Tuesday, June 30, 2020, at the Franconia Town Hall to consider applications for a zoning variance filed on April 22, 2020 and special exception filed on June 23, 2020 for an Accessory Dwelling Unit (ADU) construction at 2203 Easton Road, Tax Map 34, Lot 9 were on the hearing agenda. The variance and special exception are related to Article 3, Section 13, of the Town of Franconia Zoning Ordinance. The hearing was noticed to the public and abutters as required.

**Public Hearing:**

**Application for Special Exception**

The meeting was called to order at 4:30 pm by the Chair, Peter Grote.

The Chair asked if there were any conflicts of interest among the board members. Each member stated they did not have any conflict of interest with the case.

Jenny Monahan commented to the Chair that former ZBA Secretary Carol Wills said the elections should be held prior to the hearing. After a brief discussion, Susan Retz made a motion to rearrange the agenda and hold the elections prior to the hearing. Brian Williams seconded the motion. All were in favor. **Motion passes.**

The Chair made a motion to appoint Jenny Monahan as Secretary Clerk to the Zoning Board of Adjustment. The Vice-chair seconded the motion. All were in favor. **Motion passes.**

The Chair opened the discussion regarding the case before the Board; applications by applicant Joel McKenzie and agent Tim Klotz for a Special Exception and a Variance from Article 3, Section 13 of the Franconia Zoning Ordinance for the construction of an Accessory Dwelling Unit. The proposed 780 square foot ADU will be above the two bay garage that is attached to the Primary Dwelling by a breezeway.

The members visited the site on Saturday, June 27<sup>th</sup>.

As requested by the Chair, Tim Klotz reviewed with the board Article 3 Section 13 Requirements A-H. Tim testified he would comply with each condition except 13-B which states:

*“An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.”*

Tim said because the Primary Dwelling is attached to the garage by a breezeway, there will be no interior door connecting the ADU to the Primary Dwelling. Tim added that he will install a fire door, a deck and an external staircase providing egress as required by the fire code.

Tim also stated that with regard to Requirement D, he intends to eliminate a bedroom in the Primary Dwelling by removing a closet from an office so the total amount of bedrooms in the combined structures will remain four, which is what the existing septic system is approved for.

After Tim completed the review of the requirements, there was a brief discussion initiated by Brian Williams about the building conditions and codes for the ADU and whether the ZBA enforces them.

Building Official Allan Clark responded, providing an outline of the building permit application process and said that his position is responsible for the oversight of building code enforcement. Allan also said all the codes must be current codes for this project as there is no grandfathering due to the ADU being a change of use.

The Chair said that he spoke with Counsel and was advised that the primary issue of concern is the safety of an ADU over a garage space. Counsel advised that the applicant will need to install an interior fire door egress since the proposed ADU would be sited above the garage. In response, Allan Clark stated that the town's process for issuing a Certificate of Occupancy ensures that the state's fire codes and safety regulations are met.

The Chair asked if there was any other discussion from the other members. Board members confirmed they had no further discussion.

The Vice-chair made a motion to accept the application for a Special Exception. The Chair seconded the motion. All were in favor. **Motion passes.**

### **Application for Variance**

The Chair stated that after hearing evidence that supports the applicant's request the Board has granted the Special Exception and he didn't think it was necessary to hear the application for the Variance. The Chair referred to the recent Harrigan application. (The ZBA found that the variances proposed and requested were unnecessary.)

Tim Klotz asked to be recognized and then stated that if the Board does not want to hear the Variance application he should be refunded the fees associated with that process.

Allan Clark commented that in his opinion if the Board does not feel that the Variance is required, it should state such and explain its reasoning for the record. Allan also said that in his opinion the Variance is needed because although the ADU meets the requirement for being attached to the Primary Dwelling, it is on the second floor and therefore cannot meet the requirement for the common door so requires a Variance from that requirement.

Susan Retz said that she agrees with Allan that the Variance is needed and a brief discussion ensued about the best way to proceed.

After the discussion, Susan Retz made a motion to grant a Variance for the interior access between the two units. Alicia Shambo seconded the motion. Four members, Susan Retz, Alicia Shambo, Phil Krill and Brian Williams voted to grant the variance. Peter Grote voted not to grant the variance. **Motion passes.**

There followed a discussion about a recent (building and zoning) violation and what the repercussions were for being in violation of the building ordinance. Allan Clark said fines can be imposed by the Board of Selectmen.

As there was no further discussion, the Chair made a motion to adjourn the hearing at 5:32pm and opened the regular meeting. The Vice-chair seconded the motion with all voting in favor. **Motion passes.**

Susan Retz made a motion to accept the resignation of Bess Andrews from the Zoning Board of Adjustment. Alicia Shambo seconded the motion with all voting in favor. **Motion passes.**

The Chair commented that at the working meeting in March the Board voted to reappoint he and Phil Krill as Chair and Vice-chair for another year.

Regarding a previous case, the Chair made a motion to approve Dean Cibotti's parking Variance. Susan Retz seconded the motion with all voting in favor. **Motion passes.**

Allan Clark requested that the Board set a meeting monthly in the instance that there are cases for its review as he currently has several applications that he thinks will need to come before the Board. The Board briefly discussed what day would be agreeable before deciding on the third Thursday of each month at 4:30pm.

Brian Williams made a motion to hold a meeting on the third Thursday of each month at 4:30pm. The Chair seconded the motion with all voting in favor. **Motion passes.**

After a motion by the Vice-chair, seconded by Susan Retz, the meeting was adjourned at 5:34pm.

Respectfully submitted,  
Jenny Monahan  
Secretary, Franconia Zoning Board of Adjustment