

**MINUTES**  
**FRANCONIA ZONING BOARD of ADJUSTMENT**  
**MEETING & PUBLIC HEARING**  
**Wednesday, June 4, 2014**

**Board members present:** Donald Lawton, Melinda Richmond, Mary Fowler, Phil Krill, Lydia Cumbee & Sharon Hoyle.

**Other present:** Elizabeth Andrews & Keith Batchelder

A meeting and public hearing of the Franconia Zoning Board of Adjustment (ZBA) was held on June 4, 2014 at the Franconia Town Hall.

The meeting was called to order by Chairman Donald Lawton at 6:00 PM.

The members of the ZBA introduced themselves to applicants, five of whom were present, plus one alternate. A quorum was declared.

Mr. Lawton called the public hearing to order.

**PUBLIC HEARING:**

**Application for Area Variance Case 2014-01**

This application was filed by Elizabeth Andrews.

Chairman Donald Lawton reviewed the checklist and asked the applicant to state the reason for the hearing. Keith Batchelder spoke for Elizabeth Andrews saying that the application for a building permit was referred to the ZBA due to the fact that the proposed structure placement was not going to meet the required 50-foot setback.

- Notice in regard to the public hearing was published in The Littleton Courier.
- Notice to abutting property owners was sent by certified mail.

The application was deemed to be complete.

Mr. Batchelder gave a brief summary of the current layout of property noting where the house and attached one car garage are along with the location of tennis courts and the outline for where the proposed structure would be constructed which would stand approximately 41-feet from the centerline of the road.

Don Lawton explained the issues that the ZBA were up against regarding this application. The first issue was that the lot was currently non-conforming and he explained that part of the ZBA's job was to not create any further non conformity by granting this area variance. Secondly, after reading through the application he could not find any basis of a hardship.

There was much discussion between the ZBA Board and the applicants seeking any other way around this. There were questions from the Board members about locating the structure in a different place or facing a different direction but because of where the septic is and wetlands and an old culvert by Rt. 18 the proposed location is the most ideal. The applicant reviewed what the reason for the setback was and ultimately it was explained by ZBA that if the Town were to widen the road or need to access the space that the structure was constructed on this would be a problem for the homeowners as far as removing the structure. The homeowner said that due to the fact that it is considered a portable structure they would take it down at their expense if the need arose. This raised more questions about what is considered a portable structure. There is no definition in the zoning for this. The fact that asphalt was going to be put under the structure raised the question of whether this would be considered portable. Kevin Batchelder also referenced his neighbor Joel Peabody across the street who has the exact same structure and it was approved as a portable garage.

The ZBA recommended that the applicant go to the Planning Board for an informal discussion. The public meeting was closed at 6:50 pm.

Public hearing opened at 6:50 pm. There was discussion amongst the ZBA members regarding this. Lydia Cumbee asked if the portable garage did not extend beyond the existing house which does not meet the set-back why would we not accept it. Don Lawton said that the ZBA needed to stay within the guideline of not creating more non-conforming conditions. The ZBA chair also stated that there needed to be a definition of a portable structure which needed to be determined via the Selectmen.

It was decided that the ZBA would dismiss the application and advise the applicant to go back to the Board of Selectmen with a complete building permit which included a site plan with drawings indicating setbacks done by a surveyor and to obtain a decision from the Selectmen about whether this is a portable structure because if it is determined to be a portable structure then this would not be a matter for the ZBA. It was also noted that if the applicants need to come back to either the Planning Board or ZBA that any hearing fees would be waived since they had already paid for this hearing. This will be noted in the minutes.

Don Lawton made a motion to dismiss the application and refer applicants back to the Board of Selectmen. Phil Krill seconded and the motion carried.

Don Lawton reopened the public meeting @ 7:05 to vote on roster of members for 2014/15. Lydia Cumbee made a motion to leave the roster as it stands. Mary Fowler seconded it and the motion carried.

The public meeting was closed at 7:10 pm.

Meeting was adjourned at 7:10 pm

Respectfully submitted,

Marilyn Knowlton  
Secretary