

Town of Stoddard  
Zoning Board of Adjustment Meeting

Preliminary

April 18, 2024

Town Hall

The Chairperson called the meeting to order at 7:31 pm

Pledge of Allegiance was led by the Chairperson

Roll Call: Herb Healy Chair, Franz Haase Vice Chair, Bud Record, Milosh Bukovcan standing in for Doug Summerton, Loren Patton

Members Excused: Doug Summerton

Others present: Tracy Keating Gunn, Jason Kovarik Conservation Commission, Bob Madden attendee, Andrew DeMasi abutter to Gunn and McLaughlin, Mike Harris BCM Land Law representing Keating Gunn, Buzz (Robert) McLaughlin, Kris Mclaughlin, Gavin Gunn applicant, Dustin Taylor-contractor with John Lemanski applicant, Gabrielle Lemanski visitor, Ethan Lemanski visitor, Terri LaRoche Selectman, Michelle Pong Town Administrator, Geri and Mark Bailey abutters to Lemanski, Harry Power Compliance Officer

Herb read aloud the order of Hearings for the evening. Franz read the conduct of Hearing Rules to all present, applicable to all 3 hearings.

**Public Hearing: Tracy Keating Gunn 2024-0401 Special Exception for an ADU.**

Franz motioned to begin the first hearing, Loren seconded the motion, motion accepted.

Hearing:

The Secretary read the Notice of Public Hearing to the audience. The Applicant requests to use an existing detached accessory structure as an ADU on the property located at: 537 Aten Road, Munsonville, Tax Map #424, Lot #08, in the Rural District.

Herb began by referring to letters from the Town to the applicant dated 12/27/23 (a cease and desist order), 01/31/24 (how applicant wanted to resolve issue), 02/16/24 (letter from applicant responding stating an intent to file for Special Exception) and application received by the ZBA on 03/07/24. The application for Special Exception for an ADU is deemed right for consideration. Herb explained the responsibilities of the ZBA to approve an ADU as prescribed by the Stoddard Community Planning Ordinance and the State of New Hampshire citing RSA 674.33. He read aloud Article III subsection 3E of the Stoddard CPO as worded by Town warrant Article03/05/2018. The wording of requirements of items 9 & 7 are different from what had been posted. He

explained the warrant article wording is the legally correct version for purposes of ZBA proceedings as advised by Town Counsel.

Mike Harris of BCM Land Law, representing Tracy Gunn began the presentation, saying the changes to Item 9 concern him as he was unaware of the changes in the wording until this evening. Bob Madden, of the Planning Board, stated that the new wording was found a couple weeks ago as they were reviewing the document and that an announcement of the correction was recently posted on the Town website. Herb offered the applicant a continuance so they could prepare for this change. Mike chose to continue tonight's hearing.

Mr. Harris continued; asking for a waiver from Item #7 of the ZBA application checklist as the detached accessory structure (the tree house) has already been built. The Chair agreed.

Applicant first addressed an existing apartment in the primary dwelling. The Intent of the applicant is to turn the in-house apartment back into a bedroom. The current short-term lease to a traveling nurse for the apartment ends May 20<sup>th</sup> and that will be the last time that unit will be utilized. Plans are for the kitchen area to be removed.

Mr. Harris reviewed the treehouse relative to the conditions in the ordinance. Applicant plans to install a new septic system to service both house & ADU. The system is for 5 bedrooms. The primary residence has 4 bedrooms. The ADU has one. The ADU has a complete bath and kitchen with a loft. The ADU is 344sqft. There is parking space with open access to both facilities. A planned new garage will not obstruct egress or access to either building. The primary dwelling unit is occupied by the owner.

Herb asked if a building permit for the tree house was obtained. Mr. Harris said one was secured and that the applicant thought it was clear when presented 3 years ago that it would have electricity, heat and water. He offered to have the condition of a new building permit as part of the Special Exception.

Mr. Harris spoke on Item #9 B (foundation requirements) saying the treehouse has a sturdy wood frame that is permanently attached to 6 - 4ft deep sonotubes using poured high strength concrete & 6x6 posts along with specialty beams bolted to tree. The tree as well as the beams supports the structure. It stands 12ft off the ground. Mr. Gunn stated he utilized a special mechanism developed by contractors that specializes in building tree houses which anchors the house to the tree and also allows the tree to move and the house to remain stationary. Mr. Kovarik said the type of foundation used here is called a "pier and beam foundation". The structure has an in-line heater for the water and 2 propane tanks for heat.

Mr. Harris continued referring to item #9C the treehouse has been stained red/brown and has red roof. The house is also natural brown in color, that both are wood finished, with cabin-like setting and blend into the lot well. Mr. Demasi stated roof lines of both house & tree house are the same, stating it is a delight to look at..

The Chair asked how they plan to utilize the ADU. Mr. Harris stated they want to use it as a short-term rental unit. He states rental terms are not mentioned in the CPO and the State statute does not set limits either. Herb mentioned the ADU needs to be in harmony with the ordinance and ADU's are for housing, not short-term rentals. Mr. Harris didn't agree stating it would be difficult to tie short term rental to harmony with the ordinance. Herb stated the ZBA is a Land Use Board and he wants to make sure the buildings use is consistent with the intent of the ordinance. Discussion continued. Franz referred to the Housing Authority 2017 edition Guide for Municipalities citing the purpose of the statute is to allow ADU's state wide and municipalities to develop their own ADU ordinances, developed in spirit of increasing workforce housing and income for older homeowners. Item #10 short term rentals are acceptable however, municipalities can create their own limits. Stoddard's ordinance does not address this item. Mr. Harris agreed that short-term rentals do fill a need.

Mrs. Gunn provided background on the treehouse and this case. COVID had stopped both Mr. and Mrs. Gunn's income. At that time, they were looking for a way to earn an income while at home. They obtained a building permit at that time. Subsequently, Mr. Power cited them for a structure that was not in compliance with that initial building permit. Both Mr. Power & Michelle Pong suggested they apply for the Special Exception to come into compliance. They are seeking to remedy the situation.

Bud was concerned if the tree house was safe and sound for occupation. Mr. Harris stated a visual inspection would be welcome to assure it is safe & sound. Two structural engineers have looked at it and said they couldn't certify it as they didn't have the qualifications, but it looked very sturdy.

Terri Laroche, Selectman stated the applicant has been running 5 bedrooms on a 3-bedroom septic. They currently have 2 ADUs on the property and are allowed only 1. Herb reminded those present the ZBA can't hold up a decision until an applicant gets all permits. The Board would have to condition the Special Exception.

Loren spoke clarifying in 2020 they had a permit for a treehouse. They now need a permit for an ADU, not a permit for demolition of the kitchen.

Herb asked if anyone would like to speak in favor, or opposition to application. Terri spoke stating the septic needed to be addressed as do the 2 ADUs where only one is allowed.

Mr. Harris suggested 2 conditions to be placed on the Special Exception: the apartment be vacated by May 20<sup>th</sup> and the tree house may have to set empty until the septic update is done.

Loren asked about the location of the new garage that was mentioned in the presentation. Members responded saying the garage would require its own building permit and that would be the Compliance Officers responsibility.

Herb asked if any member of the public had more to say, then asked if ZBA members had any more questions. There were none. Motion to close for deliberations was made by Loren, seconded by Bud, all agreed and the Hearing closed.

#### Deliberations and Vote:

Herb opined all 9 items required for an ADU were met. Do to testimony they will eliminate the apartment in the home, the sewer can be addressed as a condition for approval. Franz stated it doesn't meet item 2 for the septic load but we can condition that. Loren agrees with Franz and he has no problem with the foundation, he feels the house is built to current standards. Milosh stated with a condition on the septic and elimination of the in-house ADU he agrees with Loren. Bud agrees with Loren & Milosh.

Herb worded the Conditions to be added to the Special Exception, should it be granted: applicant must 1.) secure all building permits; 2) obtain aseptic system Permit for Operation for all bedrooms from the State; and; 3.) Kitchen facilities will be permanently removed from the existing basement apartment. A motion to vote for approval with those conditions was made by Franz, seconded by Bud. Roll call vote was taken: Bud approve with conditions, Herb approve with sequential conditions, Franz Approve, Loren approve on conditions set forth, Milosh approve.

#### **John and Barbara Lemanski Case #2024-0402**

Herb read and explained the conditions of a Special Exception for the Wetland Ordinance.. A motion to open hearing was made by Bud, seconded by Loren. Voted to open hearing.

#### Hearing:

The Secretary read the Notice of Public Hearing to the audience. The Applicant proposes to: build a deck, a portion of which will be less than 50 feet from the Lake on the property located at: 1163 Shedd Hill Rd, Stoddard, Tax Map, #105 Lot #02 in the Lake District.

Dustin Taylor spoke for Mr. Lemanski, stating they have a building permit for the project. Mr. Lemanski stated the camp originally had a deck. In 2015 trees fell during a storm and destroyed the deck. The new deck is in the same location and same footprint of the previous deck, and is a raised deck at the same level as old one. There are no stairs on the lake side and no vegetation in the area. Electrical and utility connections are roadside. There are no new barriers between the deck and the lake. Four concrete piers supporting the deck will be dug into the ground at frost level. They will be applying for a Shoreland Permit by Notification.

Harry stated they have been very careful with the work they have been doing.

Jason Kovarik spoke for the Conservation Commission stating the area has been disturbed prior and this deck is a replacement, they have no problem with the project. They also asked that the applicant give consideration to using native plantings when they get to that point.

Mr. Baily, abutter, asked a question regarding the Wetlands Ordinance. Herb explained the 50 ft buffer for the wetlands and that the lake is a boundary line. Mrs. Bailey asked what part of the construction is within the 50 ft buffer. Dustin replied a portion of the deck and a post is within the 50 ft buffer zone.

Herb asked for comments or questions from the public and there were none. He asked the same from the members, there were none.

A Motion to close the hearing was made by Loren and seconded by Bud, all voted in favor.

Deliberations and Vote:

Herb stated he saw no problems with egress, emergency access and utilities. Franz said he was glad to see the house being repaired. Bud stated until he gets approval from the State he can't work on the project. Members voted to add a condition to the Special Exception that the applicant obtain a Shoreland Permit from NHDES.

Roll call vote was taken: Milosh approve, Loren approved as written, Franz approve, Herb approve, Bud approve.

### **McLaughlin Hearing: Case 2024 0403 SE ADU**

Hearing:

The Secretary read the Notice; The Applicant proposes to: build an ADU attached to their existing home on the property located at: 488 Aten Rd, Munsonville, NH, Tax Map, #424 Lot #34 in the Rural District.

Mr. McLaughlin presented his project. He designed the house himself and submitted in writing compliance with all 9 conditions of the ADU Ordinance including detailed plans of the addition, layout of the current site and sketch of the finished project. Specific to the conditions: 1. & 5.) It will be an attached ADU that has access into the home along with a private entrance and exit. 2.) He is building a separate septic system specific to the ADU. 3.) The ADU will have separate & complete kitchen and bathroom facilities from the PDU. 4.) The addition is 989 square feet. 6.) The addition will have only two bedrooms. 7.) Harry stated he has seen the location, there is a long windy driveway and plenty of parking area. 8.) Their children will be living in the primary residence and the owners will be in the ADU. 9.) A. The building permit has been submitted to the Compliance Officer. B. & C.) The ADU structure will be entirely new construction, will have a permanent foundation, and the design maintains continuity with the look of the original building.

Herb asked for comments: there were none.

Bud made a motion to close the hearing, Loren seconded the motion, the motion passed.

#### Deliberations and Vote:

Herb opined all 9 conditions for an ADU within the Ordinance are met. There was agreement amongst all members, with agreement that vote for approval to be conditioned on obtaining Permit for Operation for the Septic and a building permit.

Roll call vote was taken: Bud approve, Herb approve with conditions, Franz approve, Loren approve, Milosh approve.

#### Meeting Minutes

Approval of Mar 21, 2024 meeting minutes was tabled; Herb will email his edits for last month's minutes to the secretary.

#### Correspondence/Reports

Secretary: Budget report submitted, maybe an ADU on next month's agenda.

Compliance Officer: An existing non-compliance property owner has submitted a new plan to the State but it has not been accepted yet.

Board Members: None

#### Old Business - None

#### New Business

1. Members received copies of Vertex application and elected Thursday, May 9<sup>th</sup> at 7:00 pm for a special hearing. Kathy to contact Beth at their office.

2. Discussed utilizing the "e-alert subscriber" function for ZBA announcements and notices. Members agreed.

Public comment – none

Non-public session-none

Adjournment Motion made by Franz, seconded by Bud. All in favor. Meeting adjourned 11 pm. A Special Hearing will be held May 9<sup>th</sup> at 7 pm at the Stoddard Town Hall.