**Town of Stoddard**

**Zoning Board of Adjustment Meeting**

**March 21, 2024**

**Town Hall**

The Vice Chairperson called the meeting to order at 7:30 pm

Pledge of Allegiance was led by Franz Haase

Roll Call: Herb Healy Chair by zoom, Franz Haase Vice Chair, Bud Record, Milosh Bukovcan alternate sitting in for Doug, Loren Patten alternate filling in for Jason Kovarik

Members Excused: Doug Summerton

Others present: Don Healy applicant, Margaret FoxWeldon and Len Weldon applicants, Tracy Gunn citizen, Kris McLaughlin and Robert McLaughlin abutters.

Meeting Minutes: Herb stated he will be participating in full in tonight’s meeting via Zoom as he is currently out of state. Franz will lead the meeting this evening.

Franz read the rules for Public Hearing to the audience.

**Public Hearing: Case 2024-0303 Variance**: setback for a 16x 40-foot home. Map 139 Lot 27. Applicant: Leonard Weldon and Margaret Fox Weldon

The Chair asked permission of Mr. Healy to hear this case first. Mr. Healy agreed. The secretary read the Notice of hearing and where it was posted. Franz read aloud the five criteria that must be fulfilled in order for the Board to grant a Variance. He then asked Mr. Weldon to present his project.

Mr. Weldon explained the house will be 16 ft wide and 40 feet in length, but will extend into the 25-foot setback. The lot is 50 feet wide. He presented pictures of the lot and proposed home. There is a septic plan dated 2007 when they bought the property, along with a design of a much larger home which led them to believe the lot was buildable. The lot is currently undeveloped. He believes the impact to the environment would be low, and the project would increase the property tax base for the area. Margaret read aloud their application. Mr. Weldon explained the neighbor has asked to have 3 trees from the property removed as they lean over onto his land but Mr. Weldon has no plans to remove any trees or natural vegetation other than the 16 x 40-foot area the building will occupy. They are very environmentally conscious and plan this to be their private refuge, used only 5 or 6 months a year. The house will be made of vertical pine or cedar wood and glass, the house will be small and blend into the property, almost unseen from the road and will be on piers so won’t impede small animal movement. Remaining trees and indigenous plants on the property will be preserved.

Comments: Herb asked if the property is being taxed as a building lot and it is. They have an offer to purchase 1/10 of an acre at the back of the property. The current lot is 50x100 feet. Loren asked the size of the original septic on the property. Franz read the old septic design, it is for a 2-bedroom home. Franz asked if homes on either side were year-round? Mr. Weldon explained, one owner lives in VT, the other unknown if is year-round. Jason mentioned the GISC says their lot is 55ft wide, Franz read the Septic design which said the lot is 50ft. Franz asked members if there were any other questions. Secretary has not received communications from any abutters. The applicants state the Tuthill’s (abutters) wished them well.

Motion made by Herb to close the hearing. Members voted unanimously in favor. The Hearing closed. Franz explained the voting process and members agree to have a Board member record and use one worksheet for statement of reasons.

#1 & 2 – can be ruled together: it does not alter the essential neighborhood as there are houses on either side and on similar lots. It does not threaten public health or welfare. The spirit of the ordinance would be observed as there is no overcrowding. This is an extremely well thought out plan and considers the environment

#3 – Granting the Variance would do substantial justice because the seller led them to believe the lot was buildable, they have owned it for 20 years and its design will fit in beautifully with the surrounding area. Not granting would be substantial injustice as there are houses on either side of the lot.

#4 - Would not diminish the value of surrounding properties as the proposed design fits in perfectly with the surroundings and neighboring homes. There will be an undisturbed natural setting with a tree line on both sides of the home.

#5 - Unnecessary hardship: a &b apply, b would be the stronger argument – w/o a variance there would be no sized building that would fit on the lot. There would be no reasonable use of the land. Their plans are exactly in character with the neighborhood.

Franz asked for any further questions or comments.

A motion to vote on the Variance was made by Lauren and seconded by Bud. Motion approved. Roll Call vote taken: Franz - Approve, Loren - Approve, Milosh- Approve, Bud- Approve, Herb -Approve. Unanimously approved.

**Public Hearing**: **Case 2024-0301 Variance**: setback for a new dwelling. Map 418 Lot 87. Applicant: Don Healy

Franz reminded the audience the criteria for this case were the same as the previous as they are both Variances. The Secretary read the Notice of Hearing and where it was posted. Herb stated while we are within the State rules for a Hearing, we are not adhering to our town ZBA procedures, as the notice was posted on the Town web three days ahead of the hearing not the required five. Legal counsel advice was we could go forward as the applicant is the only abutter and risk is low. Members have no objections to move ahead with the hearing. The applicant would like to move forward also.

Mr. Healy presented his project. He handed out maps showing the location of his project. Map 418 lot 87 is a separate buildable lot and was part of a 1950’s Mountain Lake Estates, an area which was originally divided into 470 lots. The remainder of these lots, although showing as individual lots on the tax map, are now one lot, identified on town property tax cards as Map 418 Lot 02. The applicant owns both 418-87 and 418-02. Lot 87 is bordered by the properties of Lot 02 and is a buildable lot being 70 x 100 feet. The proposed home is 28 x 28 feet, intruding into the setback. Lumber for the house has been cut from trees on the property. Mr. Healy then read from his application how he feels he has met the criteria of the Variance.

Comments: Asked if it bothers him that the tax map does not match the property records, Don replied it doesn’t bother him. In 1975 all rights of other lot owners were cancelled and Don just has to keep access open to the other lots. The southern access road has been maintained and the road in front of the lot has been improved. Bud; seems silly he is before the board to get permission to build on property he owns and is the abutter to. Don said it is less expensive to come before the ZBA than to do a lot line adjustment. Franz asked if there were any further questions or comments, there were none. Herb made a motion to close the hearing, the motion was seconded by Loren, members voted unanimously in favor. Members agreed to have one form for their comments on the hearing. Franz recorded the comments.

Criteria: 1 & 2 There is no public involvement as the applicant owns the surrounding property. It would not be contrary to public interest.

Criteria 3 Would do substantial justice because it allows for reasonable use of the property

Criteria 4. Will enhance surrounding values with road improvements. Is a well sized and designed structure.

5 a – 1 & 2 no substantial relationship exists as he is the sole abutter to the lot and is asking only for 4 feet on each side of the setback. He owns far more than the required set back on all four boundaries. Proposed use is reasonable. 5b does not apply.

Franz asked for comments there were none. Loren made a motion to vote, Milosh seconded the motion and members were all in agreement. Roll call vote on the Variance: Bud - Accept, Franz- Accept, Loren - Accept, Milosh - Accept, Herb – Accept. The vote was unanimous to approve the Variance.

**Public Hearing: Case 2024-0303, Special Exception:** to build a new residence & garage with an integral ADU. Map 417 Lot 07. Applicant: Don Healy.

Herb read the requirements for an ADU from the CPO (E2 – 9). He explained the ordinance specifically talks about conversion – the ordinance does not provide for a new build. However, legal counsel advises the Board to consider a new build the same as a conversion.

The Secretary read the Notice and where it was posted. Herb explained the criteria for a Special Exception to the audience.

Don presented his project. He had maps of the property and pictures of the home with interior design layout of the proposed project when completed. This is to be their retirement home which will be next to his other residence. This building will have a care taker apartment. When they applied for the building permit there was no question on the permit regarding an ADU. He is here tonight to be sure he is in compliance with the regulations. Don presented a poster listing the 9 requirements for ADU’s as listed in the Stoddard CPO and showing how his project meets them. The house will set on a 19- acre parcel and will contain a caretaker apartment. It has an approved septic, which includes the primary dwelling & ADU. Both PDU and ADU have separate kitchen and bathroom facilities. The ADU is approximately 900 square feet, less than the allowed area of 1,000 sq. ft. The ADU has a separate and safe means of ingress & egress as well as a door separating it from the PDU. The ADU has one bedroom. It has two dedicated off-street parking spaces for passenger vehicles. The owner of record will be residing in the Primary dwelling unit. This ADU is not an “addition” but an integral part of the new house design. The project has a Building Permit which has been approved by the Town of Stoddard.

Comments: Franz asked for comments from the public. Kris wants to build ADU. They live on Aten Rd and are here to learn about the ADU process and are friends/supporters of the Healy’s. Loren, asked if along with the permit for the house does he need a separate permit for an ADU? Harry responded that by July there will be a separate charge for an ADU addition but not for a new construction. Bud made a motion to close the hearing. Herb seconded the motion, members voted unanimously to close. Hearing is closed.

Franz feels all the criteria for the ADU Special Exception have been met or exceeded. We can vote as a whole if all criteria have been met. Franz asked if anyone had questions. There were none. Loren made a motion to vote and Bud seconded the motion. The decision to vote was unanimous. A Roll Call vote was taken on the Special Exception: Milosh - Approve, Loren – Approve, Franz – Approve, Herb - Approve, Bud - Approve. The Special Exception was unanimously approved.

Robert Mclaughlin asked what order of the process should they begin to build an ADU. Franz and Herb suggested the property owner goes for the building permit first but an individual can do it in any order.

Correspondence/Reports

Secretary

* Mentioned the bills received this past month. Have received applications for: 1 SE for an ADU (not yet active) 1 SE ADU scheduled, 1 SE for Wetlands, 1 SE for cell Tower.

Compliance Officer

* Court case tomorrow for 2023-07, Island Pond steps still pending. Resident on Fox Run Road must remove their structure.

Board Members

* Jason is stepping down from the Board. The Selectmen did not reappoint him as he is on multiple land use boards and that could be perceived as a conflict of interest. With Jason leaving, Loren has volunteered to step up into his spot. As of Monday evening, we will have a full board. Herb thanked Milosh for being a reliable and active alternate.

Old Business

Meeting Minutes.

Edits to the Dec 2023 minutes: 4th bullet, 4th line make a separate paragraph & Change word Criteria to “Condition”. Jan Bud motion Herb 2nd approved.

New Business

* Jason has agreed to be a liaison between ZBA and Conservation Commission of which he is Chair. He would like the whole packet of any wetland Special Exception as soon as possible, so he could bring them up with CC Board members.
* Review and discussion on ZBA authority and conditions for a Special Exception regarding cell towers as written in the CPO, Section 4 - Telecommunication Section.

Public comment – none

Non-public session - none

Adjournment Motion made by Bud, seconded by Loren. All voted in favor. Meeting adjourned at 11 pm. The next meeting is on April 18, 2024, at 7:30 pm at the Stoddard Town Hall.