

Town of Stoddard
Zoning Board of Adjustment
Minutes of Meeting November 17, 2016

The meeting was called to order by the Chairperson at 7:37 pm.

The Pledge of Allegiance was led by Harry Power.

Members present: Chairperson Paul Krampfert, Angel Nicoletti, Alternate Dean Huber sitting in for regular member vacancy, Alternate Richard Scofield sitting in for Curtis Taylor, Dave Costin

Members excused: Vice Chairperson Curtis Taylor

Alternates excused: Ed Saleski

Others present: Compliance Officer Harry Power, Michael Lebo, Dean Dorman

Hearing

- Continuance of Hearing of Application for Michael L. Lebo and Laura M. Dougherty Case 2016-3 Tax Map 115 Lot 49 . Paul asked if the applicant had anything new to add. He did not. Paul asked if any Board members had questions, no one did. Paul led the Discussion on the 5 criteria of Granting the variance. Item #1 Granting the variance will not be contrary to public interest. Richard stated there would be no conflict to public interest. Dean stated there would be no conflict. He viewed the property with the owner today as he couldn't make Saturday's site visit. Dave & Angel both felt it didn't go contrary to the public interest. Paul said there was nothing that would be contrary to the public interest such as blocking a view from any neighbors. Paul stated the garage storage area will allow things like floats to be organized giving a neater look to the property. Dean had concerns with the Right Of Way on Mr. Lebo's property. Dick stated he went to the Cheshire County Registry of Deeds in Keene to view maps of Hidden Lake Development and discovered the maps show a narrow ROW but contain no dimensions. He and the County Clerk viewed Mr. Lebo's deed and previous deeds as far back as 1970 and they had no mention about a ROW easement across the property. Harry Powers has two maps dated 1971 of the HLD plan, accepted by the Planning Board, which show a 50' ROW on the property but one of the maps is not registered. Richard then emailed the NH Municipal Association and asked what constitutes a ROW across a piece of property. They sent back an RSA that both he and Paul studied and found it didn't address the question. Richard contacted the NHMA again asking what takes precedence but was again referred to the RSA which did not give a clear answer. Richard then checked with Charlie Fosberry who was the Chairperson of the Planning Board during the 1980's. Charlie recalled that there were no discussions regarding ROW or dimensions of ROW in the Hidden Lake Development. It is unclear to the Board if the ROW is legal. The planned garage comes within 5 feet of the ROW on Harry's map. Mr. Lebo stated the new owner of

property on Mallard Island had an addendum added to their deed, listing the ROW as 50 feet. Discussion on the #2 Criteria: If the variance were granted the spirit of the ordinance would be observed. Dave, Dean, Richard & Angel stated it would. Paul stated given the obstacles of the physical characteristics of the small lot, it is not different from others along the lake with no good options to stay within a setback. #3 Criteria: Granting the variance would do substantial justice because it allows good use of the property. Dean stated there is no other place a garage could go. #4 If the variance were granted the values of surrounding properties would not be diminished. All members agreed with this statement. #5 Criteria: Denial of the variance would result in unnecessary hardship because: Richard stated he wouldn't be able to have a garage because there is no other place to put it. Angel stated his neighbors would rather have his stuff stored in a garage maintaining a clean and pleasant appearance to the neighborhood. Paul stated the new construction comes with a plan to divert water flow on the property away from the house. The Chairperson asked for a Motion to vote. Richard made a Motion to approve the Variance. Dave seconded the Motion. Richard, Dean, Dave, Angel and Paul agreed. Paul addressed Mr. Lebo stating there are no conditions added to the Variance Approval. When asked, Mr. Lebo stated a silt fence is listed as being required on the state permit. Paul showed him pictures of a silt fence installed on another property and explained it's purpose. Harry stated the Building Permit will be approved on 11/28/16, at the Selectman's meeting.

- Continuance of Hearing of Application for Dean Dorman and Jan McGonagle Case 2016-4 Tax Map 133 Lot 17. Paul asked Mr. Dorman if he had any statements to add, and he did not. The Secretary was asked by the Chairperson if she received the Treelyn Road Assoc Covenants. She had not. Paul asked Mr. Dorman to fax the covenants to him within the next 2 days for review, confirming the Treelyn Road Association prohibits leasing of properties. A condition regarding leasing of the apartment will be added to the notice of decision should Paul not receive the covenants. With that in place, the apartment will not affect the general public. Richard asked Mr. Dorman if he could take pictures of the property as the camera broke the day of the site visit. Mr. Dorman agreed. Paul led a discussion on the 5 criteria of Granting the variance. #1 Criteria: Granting the variance will not be contrary to public interest: Angel stated the second floor apartment space would not be rented out and the new set back would be 10 feet. Paul stated the applicant has specified the home has only 2 bedrooms, and the extra space is necessary for family & friends only. The picture of the building shown to the Board Members shows an appealing enhancement to the property. It's position on the property does not obstruct any public or abutter views of the lake. The Secretary stated she received two abutters Notices of Hearing returned "address unknown". She was able to contact one of the abutters via phone, Mr. Ostrowski, who stated he was okay with the plan as long as it wasn't on his

property. Mr. Dorman said he had spoken with his neighbors over the summer telling them of his plans. He will contact Mr. and Mrs. McLaughlin, via email, to let them know his building plans and get their okay. He will then forward their comments to the Board Secretary. Discussion on Criteria #2: If the variance were granted the spirit of the ordinance would be observed: Richard agreed the spirit of the ordinance would be observed. Angel agreed also. Paul stated the property is consistent with small waterfront lots with no good options to stay within setbacks. Criteria #3: Granting the variance would do substantial justice. Paul stated granting the setback allows the owners to fully utilize the property. Dean, Dave, Richard and Angel all agreed with Paul. Criteria #4; If the variance were granted the values of surrounding properties would not be diminished. Members agreed. The proposed building is gorgeous and will increase the value of the property. Criteria #5; Denial of the variance will create unnecessary hardship. Member statements included; they wouldn't be able to fully utilize their lot and it also will solve a drainage problem on the property. The building could be built closer to the water but it wouldn't be hidden from the road as well and there could be an increase in chances of erosion. Richard made a motion to approve the variance and Dean seconded the motion. Paul asked for a vote and it was approved unanimously. The applicant was reminded to send the Treelyn Road Association Covenants to Paul and also to report to us that he has contacted the abutter McLaughlin, to assure they are okay with the new construction as he explained they were.

New Business

- Discussion was held regarding cancellation of the December ZBA meeting. December is usually dormant with activity. Richard made a motion that there be no meeting for December. Angel seconded the motion. The motion passed unanimously. The next meeting of the ZBA will be January 19, 2017.

Meeting Minutes

- Minutes of ZBA Meeting 10/20/2016 were approved with a spelling correction.
- Minutes of Lebo/Dougherty Site Visit 10/29/2016 were approved as written.
- Minutes of Dorman/McGonagle Site Visit 10/29/201 were approved after correcting the Tax Map number to #133.

Correspondence/Reports

- Paul reviewed the ZBA budget to date.
- Reviewed all other bills

Old Business

- Discussion on holding Meetings on an "as needed" basis. Paul met with Jim Coffey

and discussed changing scheduled ZBA meetings to every other month and “as needed” basis. He and Jim will meet again to make adjustments to the web site announcing the ZBA meetings will be held every other month beginning in January with no meeting in February unless necessary. Angel made the suggestion that the ZBA members be notified two weeks in advance of the third Thursday of the off months letting them know the status of meetings. The Chairperson will notify the Secretary to email comment to members two weeks prior to the third Thursday of the off month if a meeting needs to be called, or not, for that month.

A Motion was made by Richard to adjourn. The Motion was seconded by Dave. The Motion passed unanimously. The meeting adjourned at 8:37 pm. The next meeting will be held on January 19, 2017 at 7:30 pm, at the Stoddard Town Hall.

Respectfully submitted,
Kathleen Ellis
Secretary to ZBA