

ZONING BOARD OF APPEALS
WEDNESDAY, NOVEMBER 1, 2023
RESOURCE ROOM

Attendance: Chair Dan Heney, vice chair Mike Fitzpatrick, Jim Palmer, Ron Forget, John Bombara, Ken Frasier Building Inspector

Dan Heney called the meeting to order.

Discussion:

1. (0:20 TS) Meeting Minutes: September 6, 2023 – Possible votes
(1:45 TS) Motion to approve the minutes of September 6, 2023, as amended, made by John Bombara, 2nd by Jim Palmer. The vote passed unanimously.
2. (3:00 TS) Meeting schedule for 2024 – They discussed last time moving the July meeting from the 3rd to the 10th.
(3:20 TS) Motion to approve the new meeting schedule for 2024 made by John Bombara, 2nd by Ron Forget. The vote passed unanimously.
3. (4:00 TS) North Brown, LLC – The as built's were submitted from the contractor for phase 3 of Compass Road and the engineer requested more information. Mr. Frasier issued another permit for 24-26 Nautical Way and there is another permit application for 28-30 and 32-34.
4. (6:05 TS) Master Plan Committee Letter – Possible votes
The Board of Selectmen asked for a volunteer from the Planning Board to be a member of the Committee. John Bombara volunteered; Jim Palmer nominated John Bombara, 2nd by Dan Heney. The vote passed unanimously.
5. (8:15 TS) Signatures: Vouchers, Decisions, Legal Documents – The Board members signed the decision and the invoice.

Public Hearings:

6. (12:00 TS) 7:00 PM Public Hearing: Steve Flagg (#2023-17) 3 Hough Road
Date of Application: 10/10/2023
Decision Date for Special Permit: 90 days after close of Public Hearing
Applicant is requesting a special permit in an RA zone district to reconstruct a single-family home on a pre-existing, non-conforming lot, assessor's map 111, parcel 44. All the certified mailings have been returned. Brian Falk with Mirick O'Connell law office representing the applicant along with Kevin Quinn from Quinn Engineering. He went through the improvements and that they are looking for the Board to approve for this application and gave the Board 3 letters of support from neighbors. Mr. Bombara stated that he is in favor of this because he feels that the just because it burned down and wasn't reconstructed in the allotted time it should not be denied for the applicant to be able to live there. Mr. Fitzpatrick spoke about the proposed driveway and that it goes into the deeded right of way for the rest of the residence to use for access and stated that they could grant a variance for him to put his driveway across the easement but then the town would have some liability for that. The house burned down in the 70's and then there was trailer put up with a roof structure over it, which is still currently there. Mr. Palmer stated that he agrees with Mr. Bombara but also understands that it does not fit the town's requirements because of the bylaw. Town Council stated that when he was reading through the application, he agrees with Mr. Fitzpatrick that the wording of reconstruction is inaccurate and

that it would whether the Board could make a finding that what is being proposed does not substantially increase the non-conformity that is there right now and does believe the bylaw gives a potential avenue for this regarding variance and special permits for extensions of pre-existing non-conforming uses and that ultimately it is up to the Board for the interpretation of the bylaw. Attorney Falk stated that they are here to see if the Board will approve reconstruction of a pre-existing non-conforming structure by a special permit. Mr. Frasier stated that he doesn't think it is a single-family home and should be considered a mobile home because there is no foundation. Mr. Falk stated that the plans would greatly improve the site and the surrounding neighbors because the current structure is impeding on neighboring properties and the alternative is that the current structure stays as is indefinitely and that would not be a better solution. Maryland Klocek 11 Cross Street, South Grafton is an abutter on the west side of the Flagg property and stated that the structure is in fact a trailer and stated that there was a fence put up on the property they own prior to them purchasing the land and feels that the language for the petition for a variance is vague for a legal document and would argue that it is not a reconstruction because they are not reconstructing the trailer that is currently there on the property. Mr. Forget's input is the modifications made to the trailer make it lean more towards a cottage than a trailer. Dawn Wilson, 11 Hough Road asked if the bylaws stated that you have to keep, at least one wall of the structure up because that is what she has heard is stated in the bylaws. The Board stated that is not in the bylaws. David Willson stated that he has the prior owners phone number if the Board or anyone else would like to contact them with any questions, and he stated that the structure is a trailer with axles and does not have a foundation and the previous owners built an enclosed room off the trailer and a porch off of the addition and the stairs are currently in the right of way. He also stated the prior owners tried for years to build a home and were denied. Mr. Wilson also stated his concerns about his well if they were granted approval. Charlene Lachapelle 56 Parker Road and is an abutter to the rear of the Flagg property stated that it is a trailer, and she feels that the proposed house is too large for the property. Ms. Klocek stated her concerns about her well if this is approved. Mr. Heney stated the fence was surveyed professionally and states that it is on the property line, and Ms. Klocek said she is having it resurveyed currently as well. Becky Laramie 17 Hough Road stated that she thinks this will add value to the surrounding properties. Les Stevens 31 Brookside Drive stated that he would like the Board to consider other surrounding lake properties that have had trailers on them that were converted into camps and then into homes. Mr. Fitzpatrick stated that his opinion is that this is a different situation to the examples Mr. Stevens stated. Mr. Fitzpatrick stated that his concern is the encroachment into the right of way and how the current structure is referred to before; he would feel comfortable deciding on this matter. Attorney Falk stated that he does not think the Board should get involved in the right of way because it is a private right of way and not a town one, and as far as the how the structure is referenced, he feels because of the language in the bylaw they Board has some interpretation as to what structure means. Attorney Falk stated that he doesn't feel that the town could be held responsible or sued regarding the easement or right of way if this is approved. Mr. Wilson asked who pays the taxes for the right of way. Mr. Bombara stated that he asked the assessor to look up who owned the right of way and there is no listed owner, Ms. Laramie stated also that they do not know who owns it and she has an attorney looking into it. The applicant is requesting a continuance to have time to clear up some questions the Board has.

(1:15:20 TS) Motion to continue the public hearing to December 6, 2023, at 7:15 pm, made by Mike Fitzpatrick, 2nd by John Bombara. The vote passed unanimously.

7. (1:20:10 TS) 7:15 PM Public Hearing: Peter Ruiz (#2023-19) 141 Maple Street
Date of Application: 10/10/2023

Decision Date for Variance: 100 days of application (1/28/2024)

The applicant is requesting a variance for side yard setback relief to construct a proposed accessory apartment in an RA zone district. Les Stevens representing the applicant and stated the setback is 25 feet and they are requesting a 20-foot side set back and the addition is a 30 x 16 in-law apartment. Mr. Fitzpatrick does not have an issue with this; the only thing he would suggest is that if it is approved that it be contingent on approval of accessory apartment, Mr. Bombara also does not have any objection. Jim Mahoney, a neighbor stated he hopes the Board votes in favor of the applicant.

(1:27:10 TS) Motion to close the public hearing made by Mike Fitzpatrick, 2nd by Jim Palmer. The vote passed unanimously.

(1:27:30 TS) Motion to approve case #2023-19 as submitted, with the condition of Planning Board approval and to include the plot plan dated 9/25/2023, made by Mike Fitzpatrick, 2nd by John Bombara. The vote passed unanimously.

Upcoming Meetings: December 6, 2023 & January 3, 2024

(1:30:30 TS) Motion to adjourn made by Jim Palmer, 2nd by John Bombara. The vote passed unanimously.

Respectfully submitted,

Stephenie Gosselin