DRAFT, SUBJECT TO REVIEW, CORRECTION AND APPROVAL

DUNBARTON ZONING BOARD OF ADJUSTMENT
MONDAY, NOVEMBER 18, 2019
DUNBARTON TOWN OFFICES – 7:00 P.M.

The regular monthly meeting of the Dunbarton Zoning Board was held at the above time, date and place with Chairman John Trottier presiding.

The following members were present:

  John Trottier, Chairman
  John Herlihy, Co-Chairman
  Alison Vallieres, Secretary
  James Soucy
  Dan DalPra

Town Offices:
Donna White, Planning and Zoning Department

John Trottier, Chairman, called the meeting to order at 7:00 p.m.

Meeting Posting:
The Chairman verified with the Secretary that the meeting notice had been posted in two public places throughout the Town and published in the Concord Monitor for one day. It was noted the Zoning Board Meeting was posted on the Google Calendar.

APPROVAL OF PREVIOUS MEETING MINUTES OF MONDAY, OCTOBER 21, 2019

MOTION:
John Herlihy made a motion that the Monday, October 21, 2019 minutes be approved as written. Dan DalPra seconded the motion. The motion passed unanimously.

PUBLIC HEARING: FALCON HEIGHTS PROPERTIES, LLC. REQUESTS A VARIANCE TO ALLOW THEM TO APPLY TO THE DUNBARTON PLANNING BOARD FOR A SUBDIVISION OF THEIR PROPERTY UNDER THE OPTIONAL LARGE LOT ZONING WITH REDUCED FRONTAGE WITH ONE LOT BEING 17.69 ACRES WHERE 18 ACRES IS REQUIRED AT THEIR PROPERTY LOCATED AT 35 GILE HILL ROAD (H5-02-02) IN THE LOW-DENSITY RESIDENTIAL DISTRICT.

Jacques Belanger, Surveyor, put up a full-sized plan of the property so all could see and understand the request.
Jacques Belanger, Surveyor, explained the reasoning for the request for a Variance and noted that the lot they would like to subdivide under the Large Lot Zoning criteria was short by .31 acres thus requiring a Variance.

Maria Dolder, Attorney for the applicant appeared before the Board on behalf of Falcon Heights Properties, LLC. She stated the following:

    See attached statement.

**Board Discussion and questions:**

Jacques Belanger explained the plan to the Board and the public. Falcon Heights would like to subdivide the lot using standard 5-acre zoning and the Large Lot Zoning provision in the Zoning Ordinance. Basically, when they purchased the Brennan lot, it was noted that the entire lot had 23 acres. After surveying, it was established that the lot only consisted of 22.69 acres. The Large Lot Zoning Ordinance requires 18 acres to qualify for a subdivision therefore they are here for a Variance because the lot is .31 acres short of the required 18 acres.

**James Soucy** stated that Maria Dolder has noted that the plan is to have the house closer to the road, etc. Maria stated they have not decided yet where the proposed house will be. It would have to conform to the 50-foot setback. Probably would be set a bit further back than the required 50 feet. Because of the fact that site work and utilities are expensive, they would probably not set the house much further back. Would work with the lay of the land.

**John Herlihy** noted that there is a marsh at the rear of the property and there is a wetland out back.

Jacques Belanger, Surveyor, noted that the marsh area is further down by Nick Holmes lot. This would definitely be a single-family home.

Maria Dolder stated that it is the intent of the applicant to build a single-family home.

John Trottier, Chairman, asked who would be stamping and signing this plan.

Jacques Belanger stated he would be stamping and signing the plan.

Abutters were read as follows and noted that all had been notified by Certified Mail.
Falcon Heights Properties – Applicant
Thomas W. Burbee – Not Present
Farley Revocable Trust – Not Present
Gile Road LLC – Not Present
David B. Herrick – Not Present. Cody Herrick (David’s son) Asked if you can put a house in that little area. Noted that he had purchased Louis Chan’s house. It was noted that a house would fit on the lot with the 50-foot setback on either side. It is a narrow lot, but it is adequate for a single-family home.

Other Parties:

David Naugler – Stated it is a narrow lot. The road doesn’t support additional traffic. It is difficult for two cars to pass. It is a scenic road. The infrastructure is not there. Stated it does not make sense with regard to safety.

It was noted that this proposed subdivision would have to go through the Planning Board, and they would address any road issues, etc.

Jeff Dionne, 53 Gile Hill Road – Asked if the Zoning Board has to take into consideration, any protected or endangered species.

John Trottier noted that this would be addressed during the process of subdivision with the Planning Board.

Ed Wootten, 15 Jean Drive. – At this point it was established that Ed Wootten’s property did not abut this property and he would be in attendance for the next item on the agenda.

There being no further discussion, the Public Hearing was closed.

Board Discussion:

John Trottier, Chairman, noted that the Plan needed the Surveyor’s stamp and signature.

James Soucy noted that a Magnetic North arrow should be included on the full-scale portion of the Plan in addition to being in the upper corner on the plan.

James Soucy noted that when he was reviewing this, he wondered if when it gets approved, what the decision would be as far as what type of home would be on the
new lot. I don’t know if there is any way to control what type of housing can be put on the lot. Can the Board put a restriction that it can only be a single-family home? Stated he would feel a little more comfortable if there were some kind of restriction or control that it be a single-family home or dwelling. I don’t know what our ability is to request that. This would be in keeping with the spirit of this type of zoning, etc. Don’t know what the other members of the Board would feel about this possibility.

It was noted that the Zoning Board can put restrictions on approvals, etc.

John Trottier noted that he thought we would have to be specific as to what would be allowed. It was noted that the most they could do would be a duplex and not a multi-family, etc.

John Herlihy agreed with Jim Soucy. It should be a single-family home.

It was noted that we don’t know how we can enforce a restriction.

Maria Dolder stated that the intent is to build a single-family residence. The intent is not to put up a duplex.

**MOTION:**

*John Herly made a motion that the Dunbarton Zoning Board of Adjustment grant the request for a Variance to allow them to apply to the Dunbarton Planning Board for a subdivision of their property under the optional large lot zoning with reduced frontage with one lot being 17.69 acres where 18 acres is required at their property located at 35 Gile Hill road (H5-02-02) in the Low Density Residential District. Dan DalPra seconded the motion. The motion passed by a unanimous vote.*

**PUBLIC HEARING:** THOMAS L. CORRADO, 259 STARK HIGHWAY NORTH (H3-04-04) REQUESTS VARIANCES TO ARTICLE B. DIMENSIONAL REQUIREMENTS OF THE ZONING ORDINANCE FOR HIS PROPERTY LOCATED IN THE LOW DENSITY/MULTI FAMILY DISTRICT. THE APPLICANT WILL BE GOING TO THE PLANNING BOARD FOR SITE PLAN REVIEW FOR TWO DWELLINGS ON THIS PARCEL AS ALLOWED BY THE MULTI-FAMILY RESIDENTIAL OVERLAY DISTRICT. A VARIANCE FOR DIMENSIONAL REQUIREMENTS IS REQUESTED AS THE EXISTING DWELLING AND TWO EXISTING WELLS WILL THEN FALL WITHIN THE 100’ BUFFER/SETBACK REQUIRED IN THE MFD OVERLAY DISTRICT.
Jacques Belanger, Surveyor, representing the applicant appeared before the Board. He stated that the applicant was unable to attend this meeting. He explained the reasoning for the request for Variances as follows:

The applicant is proposing to have two conforming dwelling units on one lot (35.28 acres with 328.8’ of frontage on Route 13) as permitted by Section 9, Multi-Family Residential Housing District, of the Dunbarton Zoning Ordinance.

At the present time, Corrado stays with his parents in the existing home on the property when in Dunbarton. He has built a 40’ x 70’ building with the original intent that it be used as a garage/workshop/storage. He has decided he would like to finish the second floor off as a dwelling for himself.

In order to do this, he must apply to the Planning Board for site plan review. The MFD Overlay District requires a 100’ buffer/setback which means the existing home and two wells will fall within that buffer, therefore requiring a variance for dimensional requirements.

It was noted that the size of the building prevented it from falling under the Accessory Apartment portion of the Zoning Ordinance. There is a State Approved Septic system for the dwelling. The Building Permit was strictly for the garage and storage.

Jacques Belanger, Surveyor, stated that he has two options. He can subdivide the lot under the Large Lot Zoning or come to the Zoning Board of Adjustment for Variances for setbacks under the Multi-Family requirement. He just doesn’t have a plan at this time. He doesn’t want to subdivide the property into two lots. Multi-family is allowed on State roads. If he does it under the Multi-family District, he will need Variances for setbacks for two wells and the existing dwelling. In addition, he has a trail network on the property. It is open for the public. We are here to have a Variance to keep the structure and allow the wells to be within the setback of 100’ for the Multi-family District. At present, the existing home is conforming. He is running his business in Massachusetts. He wants to be closer to his father, etc.

He does not know what he wants to do at this point. There are two living units on one piece of property. He already has living quarters. He could move in tomorrow.

Board Discussion:

The Board noted that it appears that he is asking us for forgiveness after the fact.

At this point in the discussion, John Trottier, Chairman, noted that it appears that the deck on the existing house is also within the setback. There is more than a 69’
encroachment into the required 100’ buffer / setback needed under the Multi-family District.

John Trottier, Chairman, also noted that this survey needs to be stamped and signed as a Certified Plot Plan, etc.

John Herlihy stated he would like to see some pictures of what he has done on the property so we can see what is going on down there. I would like to see some visual pictures, etc.

Jim Soucy asked if the workshop structure septic has an Enviro-Septic type system. It was noted this was before the requirement. There is a 600-gallon septic tank installed.

Dan DalPra asked if you could do this under the Large Lot Zoning portion of the Zoning Ordinance.

Jacques noted there is 382 feet of frontage with 24 acres so it could fall under the Large Lot Zoning Requirement. Only 75 feet is required for a Large Lot Zoning proposal.

Abutters were read as follows and noted all had been notified by Certified Mail.

Thomas L. Corrado – Applicant, represented by Jacques Belanger, Surveyor
Heavens Trailside Mart -Not Present
Ellen M. Allwood Revocable Trust – Not Present
Wypkjin Whittier/Pat Whittier – Not Present
Gertrude E. Dulude/Rodney Dulude Rev.Trust – Not Present
Kathleen Martin – Not Present
Donald A. Perkins Rev. Trust – Not Present
Marilyn J. Aramini, Julio D. Aramini – Not Present

Deborah/Edward Wooten – Present- Ed Wooten stated he was concerned about his little house being affected by this. We have people who do what they want to do and then they ask for approvals. Then you say he really doesn’t know what he wants to do. He stated he has a dug well which has been there 20 years.

It was explained that this is the first step he needs to go through before applying for Site Plan Review.
John Trottier noted that Jean Drive is a private road not maintained by the Town. It is a large cul de sac.

James W. Murphy/Barbara Murphy – Not Present  
Theodore R. Hood – Not Present

Phillip J. Walker - Present. Stated that most of his questions were clarification questions. Wants to be clear. There are two dwellings on one lot. Because you are requesting two dwellings on one lot, it falls under the Multi-family District. The Multi-family District requires a setback of 100 feet which requires them to request Variances. Did I understand that the property across the road uses the existing well on this property? Asked if the applicant has considered drilling a new well instead of using the existing well on the property.

Jacques Belanger noted that the applicant did not plan to drill a new well, that is why he is requesting a Variance, etc. It was noted that the property across the street does not use the well on the Corrado property.

Philip Walker noted that asking for Variances after the fact makes a mockery of the process. Asked about the wetlands to the north of the property. It was noted that they were 150’ from the property and the requirement is 75’ for septic systems, so the wetlands are not an issue. In addition, there are no setbacks on easements.

Jeff Crosby, 17 Stark Highway South – I know that with some of the previous discussions, the Multi family has requirements as to what you can do within the buffer like cutting trails, etc. It actually goes against the buffer requirements. The main goal was to have a second dwelling on the property. What is existing is existing. What about maintaining the trails which are already there? Might come up in the Site Plan Review process. What are the buffer requirements?

Board Discussion:

John Trottier, Chairman, noted that the Certified Plot Plan needs signatures, etc. In addition, the Board is looking for photos of the property.

Alison Vallieres stated that she felt that the applicant has another option which is to subdivide the property under the Large Lot Zoning requirement. This would make it a much cleaner process than having to seek Variances for various setbacks after the fact.
The Board also noted that the applicant has created this problem for himself and now he is seeking relief through Variances to allow the use to continue, etc.

Wayne B. Mills – Not Present
J. E. Belanger Land Surveying – Represents the applicant.

There being no further discussion, the following motion was made:

**MOTION:**

*John Herlihy made a motion that the Dunbarton Zoning Board of Adjustment continue the request from Thomas L. Corrado, 259 Stark Highway North (H3-04-04) for Variances to Article B. Dimensional Requirements of the Zoning Ordinance until the next regularly scheduled meeting or until the applicant has produced the information as requested by the Zoning Board of Adjustment. The motion was seconded by Dan DalPra. The motion passed by a unanimous vote.*

The next regular scheduled meeting is Monday, December 9, 2019.

**MOTION:**

Dan DalPra made a motion that the Dunbarton Zoning Board of Adjustment adjourn at 8:15 p.m. The motion was seconded by John Herlihy and passed unanimously.

Respectfully submitted,

Alison R. Vallieres, Secretary