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

The following members were present:

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

Town Offices:
Donna White, Planning and Zoning Department

Others Attending:

Tom Corrado, Applicant
Jeff Crosby, Road Agent

John Herlihy, Co-Chairman, called the meeting to order at 7:00 p.m.

Meeting Posting:

The Co-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.

CONTINUED 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.

John Herlihy, Co-Chairman, opened the meeting at 7:00 p.m. He read the Public Notice for the meeting and noted that the applicant had provided an updated plan which was stamped and signed by the Surveyor. He also provided colored photos of the building in question.
along with photos of the entrance onto Route 13. Jacques Belanger, Surveyor, also provided a large drone picture showing the entire property.

He noted the Board had asked for the following documents:

1. Stamped and signed certified copies of the plan.

2. Deck on existing building was 59' from the lot line whereas in the MFD, it should be 100 feet, therefore, the need for a Variance for the deck under the MFD.

3. Photos of the entire property showing all buildings and the interior of the upstairs of the garage, etc.

4. A large “drone” picture of the entire property and how the buildings are laid out, etc.

5. Whether or not the dug well in the front portion of the property is still being used.

Jacques Belanger, Surveyor, stated the dug well is no longer being used and is not connected.

Jacques Belanger, Surveyor for the applicant, presented a large scale plan which was done by a drone which showed the buildings and how they were laid out on the property.

The applicant is seeking relief for the setback requirement for the 100 foot setback for the existing buildings and also the two wells which is the requirement for the MFD.

The building in the front of the property is a 40’ x 70’ barn and workshop which falls within the setback of the MFD of 100’. Therefore, the need for a Variance.

Mr. Corrado stated he has decided he would like to convert the new barn/building to include a residence instead of a barn, garage and workshop. He has put in knee walls to raise the roof. Presently, the building is a garage, workshop and wood shop. Once he began framing the building, he started making changes. He put a kitchen in and finished the upstairs. It is post and beam construction so it can be wide open upstairs. He stated he has six siblings who may want to also have a house on the lot. He does not want to subdivide the property. Presently, he is living there six days a week to take care of his elderly parents. He would like to live there permanently. If I have to subdivide, I have to. I would like to do a family development for one or more of my siblings. What I have built is not conducive to old people. My thought is to go for the MFD so if I wanted to do one or two other buildings on the property, I could. The present structure is huge. There is no way I need a four bedroom house.
The Board noted he went beyond the scope of his building permit which was issued. The requirements for a AUD are up to 1,000 square feet. The foundation of the structure is 1,200 square feet.

Abutters: It was noted for the record that there were no abutters present at this meeting. In addition, all abutters were read at the last meeting.

The applicant noted that he had spoken with Eric Dulude, an abutter, and he had no problem with the request. Noted there was another abutter who lived on Tenney Hill Road who stated he had gotten his certified letter just recently.

Jeff Crosby – Stated that you need Variances for three wells. He noted that one of the wells is a dug well. You could take this well out of the request for a Variance and fill it in especially since it was not being used presently.

It was noted that all three (3) wells need a Variance.

Mr. Corrado stated that he had to get Variances for his building in Framingham, Massachusetts.

Jeff Crosby stated that this is a very complex property.

John Herlihy asked Mr. Corrado what he did for work. This is a three bay garage.

Mr. Corrado stated he ran a construction company.

It was noted there would not be trucks going in and out of the property.

Board Discussion:

James Soucy asked about possible restrictions on building in the Public Service Right of Way. Is that usable land?

It was noted that you cannot build structures in the Public Service Right of Way. Public Service has the right to go across your property. The deeds were written in the 1930’s. You cannot build within the right of way.

Asked if there were any wetlands or non-buildable sites and wet soils on the property.

Jacques Belanger noted there was a large pond in the rear and also some wetlands.
Jim Soucy asked about the discrepancy between number of acres. Jacques Belanger stated the lot is 35.28 acres after he surveyed the lot.

Dan DalPra – Asked if he had any intention of running a business out of this property.

Mr. Corrado stated he plans to retire. Originally felt I could do wood working in the wood shop. Originally it was not living space.

Dan DalPra asked what kind of work do you do.

Mr. Corrado stated he does wood working and small additions. Has built about 12 houses. It was not my intention when I first built this to have it a house instead of a garage, wood shop, etc.

At this point in the discussion, the Co-Chairman closed the Public Hearing at 7:35 p.m.

It was established that the necessary questions for the granting of a Variance had not yet been addressed by the applicant.

The Public Hearing was reopened at 7:37 p.m.

The questions for the granting of the Variance were answered as follows:

1. The Variance will not be contrary to the public interest because:

   *The subject parcel contains 35.3 acres more or less with two separate dwellings. Both dwellings are not visible by the public from Route 13. This is a private property therefore the public will not be visiting the site.*

2. The spirit of the Ordinance is observed because:

   *The parcel is located in a low density district and the existing structures meet the setbacks for this district. With there being two structures on the parcel the land owner would like to create a multi-family situation. Therefore we are requesting a Variance for one of the structures and the two existing wells. The subject parcel is similar to surrounding parcels and observes the spirit of the zoning ordinance.*

3. Substantial justice would be done because:

   *The granting of these variances will be in harmony with the general purpose and intent of the Zoning Ordinance. The property is similar to other properties within the area.*

4. The values of surrounding properties are not diminished because:
The appearance of the subject property will remain the same as it is presently. Granting the requested dimensional variances in order to have multi-family dwellings on a 35.3 acre lot will not diminish the value of the surrounding properties. The variance requested for the one dwelling is for the original home which meets the 50’ setback for this district.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(a) For purposes of this subparagraph, “unnecessary hardship” means that, owning to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and;

The granting of these dimensional variances will not encroach or infringe on any neighboring properties or will it impose any hardship on any neighbors or the town.

(ii) The proposed use is a reasonable one.

The subject parcel has the same appearance as the surrounding properties. It is a large parcel that is mostly wooded and the granting of these dimensional requirements in order to have multi-family dwellings within the low density district is a reasonable use of the property.

The Public Hearing was closed at 7:45 p.m.

Board Comments:

Jim Soucy noted that he would just say there seems to be something elusive about all of this application. We wish we had a time capsule and see where it would be in two years. Where the wells are located are pretty close to the property line. Why are the wells that near the original property line? Why were the wells allowed to be put there in the first place? Why was the original residence put where it is? As far as Route 13 is concerned who knows what the residences will be in ten years. It leaves a bad taste. It appears it has changed from one purpose to another. I hope we are not having the wool pulled over our eyes.

Dan DalPra – Stated he still finds it very difficult to believe that a gentleman that has been in the trades did not know what he was doing that he could come to this board. I don't
know why he has made bad decisions which need to be on our shoulders by forcing us to consider a Variance. It sounds like he has been unsure of what he is building for some time and over a period of years, it comes to this point.

Alison Vallieres stated that it appears the buildings were built and then the applicant decided what he wanted to do with them. They decided they could use the Multi Family District as a way of getting the situation legal by having the Board grant Variances for wells and the building as required by the MFD. This was not the original intent of the construction. Now we are being asked to grant Variances after the fact.

John Herlihy stated the applicant is a builder and knows exactly what he was doing. The real intent was to build a house and not a garage. I feel he created his own hardship. I feel he does not meet Provision #5 of the Variance Requirements, relating to Hardship. He created his own Hardship.

The following motion was made:

MOTION:

James Soucy made a motion that the Dunbarton Zoning Board of Adjustment deny the request from Thomas Corrado, 259 Stark Highway North (H3-04-04) for Variances to Article B. Dimensional Requirements of the Zoning Ordinance for his property located in the Low Density/Multi-Family District. A Variance is requested for Dimensional Requirements for the existing dwelling and two existing wells which fall within the 100’ buffer/setback required in the MFD District. The applicant has not met the criteria for the granting of a Variance under Criteria #5, Hardship.

Reasons for this decision are within the minutes of the meetings of November 18, 2019 and December 9, 2019 of the Dunbarton Zoning Board of Adjustment.

Other Business:

Donna White, Planning and Zoning Department, gave the Board of Adjustment an update on proposed Zoning Ordinance changes for this next Town Meeting. She noted that most of them were housekeeping changes which did not to be voted on by the voters at Town Meeting. Possible Amendments which would be presented at Town Meeting would be as follows:

1. A change in the way Home Occupations is calculated to include square footage for Assessorial dwellings such as a garage to be included in the formula for the calculation of a Home Occupation.
2. Include The wording of Special Exception in the paragraph relating to Site Plan Review, etc.

MOTION:

Dan DalPra made a motion that the Dunbarton Zoning Board adjourn the meeting at 8:05 p.m. James Soucy seconded the motion. The motion passed unanimously.

Respectfully submitted,

Alison R. Vallieres
Secretary

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.