TOWN OF SWANZEY

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Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – April 18, 2016

Note: Draft Minutes are subject to review, correction and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

A meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:00 p.m. by Chair William Hutwelker. Present were William Hutwelker, Keith Thibault, Bob Mitchell, Alternate Shane Bryant, and Alternate Adam Mulhearn. Sara Carbonneau served as Recording Secretary for the evening. The Recording Secretary called the roll and read the Agenda for the meeting.

Absent: Sarah Tatro, Bryan Rudgers, and Alternates Marty Geheran and Charles Beauregard, Sr.

Others Present: Director of Planning and Community Development Sara Carbonneau, Brad Hunter, Patricia Hunter, Thomas Little, Daniel Shustock, Bradley Miller and Christine Rice.

Seated for the entirety of the meeting were: Hutwelker, Thibault, Mitchell, Mulhearn (seated for Rudgers) and Bryant (seated for Tatro).

MINUTES

Meeting Minutes for February 8, 2016 were considered. **Motion** was made by Thibault to approve the meeting minutes of February 8, 2016. There was a second to the motion by Bryant. No further discussion was held and all were in favor. The ***motion passed.***

Meeting Minutes for March 24, 2016 were considered. **Motion** was made by Mitchell to approve the meeting minutes of March 24, 2016. There was a second to the motion by Thibault. No further discussion was held and all were in favor. The ***motion passed.***

PUBLIC HEARINGS

A. Public Hearing Request for Variance

Timothy Cloutier and Ryan Kottke request a variance from Section III.S.12 to permit the installation of freestanding signs for businesses that are not located on the premises. The location of the signs is on property shown at Tax Map 3, Lot 4, owned by Kate Donovan, LLC. The lot is situated in the Business District. Continued from March 21, 2016.

Board members considered an email request from the applicants to continue the public hearing to the May 16, 2016 meeting. Reasons given for the continuance include the recent request and subsequent production of documents from the Land Use Offices, as well as efforts to retain an attorney to represent them before the Board. Motion by Mitchell to continue the public hearing

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without further notice to Monday, May 16, 2016 at 7:00 p.m. at the Swanzey Town Hall, subject to the condition that no further requests for extension will be considered or granted by the Board. There was a second to the motion by Thibault. The ***motion passed.***

B. Public Hearing Request for Variance

Brad Hunter requests a variance from Section V.B.3. to permit the construction of a home that does not meet required setbacks. The property is located at 27 Alyward Avenue and is situated in the Business District. The property is shown at Tax Map 72, Lot 108 and is owned by Patricia Hunter. Brad and Patricia Hunter appeared before the Board. Abutting property owner Thomas Little was also present. **Public Hearing opened at 7:22 pm.**

Carbonneau reviewed the ZBA Application Summary. It was noted that there was a question on the application as to whether the front setback would be 40 or 45 feet. Carbonneau noted that the front property setback in the Business District is 75 feet from the property line. B. Hunter and Little stated that the pavement of Alyward Avenue extends to Turmoil's property line (Map 72, Lot 98-2), which is not reflected on the tax map. Little stated that the town maintains the pavement. B. Hunter noted that he recently demolished all of the buildings on the property which were in terrible condition. He is planning on constructing a stick-built home. Carbonneau provided information which indicated that the total square footage of the former buildings totaled 1,024 s.f. and that the square footage of the proposed new structure totaled 1,120 s.f. B. Hunter stated that the former house was extremely close to the property line, which presented problems when plowing. B. Hunter stated that moving the house further back would be a vast improvement, both safety-wise and aesthetically. **Public Hearing closed at 7:32 pm.**

Chair Hutwelker considered the request of Brad Hunter for a variance from Section V.B.3. to permit the construction of a home that does not meet required setbacks on property located at 27 Alyward Avenue, situated in the Business District and shown at Tax Map 72, Lot 108 and is owned by Patricia Hunter.

He reviewed the Checklist for Granting a Variance with the members of the Board:

1. *Could the variances be granted without being contrary to the public interest?*
   Members said: Yes. It was noted that the proposed structure would replace a residential structure that was in extremely bad condition.

2. *Would the spirit of the ordinance be observed if the variances were granted?*
   Members said: Yes. The proposal would replace the former house that was located on the property and that the use and the intensity of the use would remain unchanged.

3. *Would the granting the variances do substantial justice?*
   Members said: Yes.

4. *Could the variances be granted without diminishing surrounding property values?*
   Members said: Yes, noting that abutting property owner Little testified that it would be a substantial improvement to the neighborhood.

5. *Do special conditions of the property exist that distinguish it from other properties in the area?* **Members said:** Yes, noting that this property was a single family home in a Business District and that the lot was a non-conforming lot of record. In addition, it was noted that the Applicant has the right under the zoning ordinance to tear down the existing structure and replace in kind within a one year period.

   a. *Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?* **Members said:** that there was no fair and substantial relationship, noting that this property is a grandfathered residential use in the Business District.
   b. *Are the proposed uses a reasonable one?* **Members said:** Yes.
6. *If the criteria in subparagraph a. and b. are not met, an unnecessary hardship will be deemed to exist if, and only if: Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property.* Not applicable.

The Chair reported that **"yes"** prevailed and he entertained a motion to grant the request for Variance from Section III.S.4.

Motion was made by Thibault to grant the request of Brad Hunter for a variance from Section V.B.3. to permit the construction of a home that does not meet required setbacks on property located at 27 Alyward Avenue, situated in the Business District and shown at Tax Map 72, Lot 108 and is owned by Patricia Hunter, subject to the condition that the house be set back no less than 40 feet from the front property line. There was a second by Mitchell and no further discussion. All were in favor. Motion passed.

C. Public Hearing Request for Variance

Daniel Shustock requests a variance from Sections IV.B.3. and XI.B. to permit the expansion and re-construction of a home that does not meet required setbacks. The property is located at 440 Homestead Avenue and is situated in the Residence District. The property is shown at Tax Map 70, Lot 15. Daniel Shustock appeared before the Board. Abutting property owners Bradley Miller and Christine Rice were also present. **Public Hearing opened at 7:38 p.m.**

Carbonneau reviewed the ZBA Application Summary before the Board. Carbonneau noted that the proposal indicates that the home will contain 3 bedrooms, whereas there is only one bedroom in the existing structure. Carbonneau stated that the Town has no information whatsoever regarding the septic system on this property and that approval for a 3 bedroom septic system design from NH Department of Environmental Services/Sub-Surface Systems Bureau will be required prior to receiving a building permit. Carbonneau stated that the Code Enforcement Officer has not been permitted to enter the structure by the property owner. Construction and demolition work has been taking place on the property since at least 9/8/15; the demolition permit was issued April 14, 2016.

Carbonneau stated that the request is to expand the footprint and cubic volume of a non-conforming structure. The non-conforming aspect of the structure is that the house sets

approximately 15 to 16 feet from the front property line, whereas the zoning ordinance requires a 30 foot front setback.

Hutwelker asked Carbonneau to describe the plans presented. Carbonneau noted that Shustock has submitted 3 different sets of plans – the first set was included with the application. He then submitted revised plans, with two different options. Carbonneau stated that the plans submitted are not adequate in order to issue a building permit.

Shustock stated that wishes to renovate the existing house, construct a dormer to allow for additional bedrooms (total of 3 bedrooms for the house), remove the concrete slab from the back of the house and construct a kitchen in that location. In addition, Shustock stated that he wished to put a full foundation under the existing house. Shustock stated that he has not allowed the Code Enforcement Officer in the house, due to it being filled with "stuff." He noted that the final structure would be between 1,200 and 1,350 s.f., but may be a bit smaller once he finds out where ledge is located on the property.

Board members expressed concern about the lack of detail in the plans presented; however, they felt that they understood the general concept of what Shustock was proposing. Board members stated that they needed a letter from a NH Certified Septic Designer that would confirm that a 3 bedroom septic system could be installed on the property.

Abutting property owners Bradley Miller and Christine Rice were present. They indicated that they were pleased that the property was being "cleaned-up." They discussed the location of their property versus the improvements proposed by Shustock and determined that there would be no negative impact to their property.

Thibault stated that he felt that the Board could proceed with the plans as presented, but noted that the Board could not approve the request without evidence that the site could sustain a 3 bedroom septic system. Board members concurred.

Motion by Mitchell to **continue the public hearing** to Monday, May 16, 2016 at 7:00 p.m. at the Swanzey Town Hall without further notice. Motion was seconded by Mulhearn. Vote: All in favor.

D. **OTHER MATTERS** – Board members discussed whether to move the start time of the meeting to 6 p.m., to conform to other Town Board meetings' starting time. Most members felt comfortable changing the start time, but decided to wait until more Board members could be present. The discussion will be postponed until the May meeting.

ADJOURNMENT

Motion to adjourn was made by Mitchell, seconded by Mulhearn and all were in favor. ***Motion passed.*** Adjournment occurred at 8:30 p.m.

Respectfully Submitted,

Sara H. Carbonneau,
Recording Secretary, Pro Tem