

**SANBORNTON ZONING BOARD OF ADJUSTMENT**

P.O. BOX 124

Sanbornton, NH 03269-0124

**MEETING MINUTES**

**April 26<sup>th</sup>, 2022**

**GENERAL BUSINESS**

Present: Audry Barriault, Secretary/Clerk and alternate, Paul Dexter, member, Kevin Riley, alternate, George Murray, alternate

Audry Barriault called the meeting to order at 7:00pm. Audry Barriault, Kevin Riley and George Murray were seated as voting members.

Applicants were informed of their right to wait until a full board is present to have their case heard or to move forward with a four-member board; both applicants wished to have their case heard tonight with a short board.

Paul Dexter made a motion to approve the minutes of 3/22/22. George Murray seconded the motion and the motion passed unanimously.

**a. Public hearing - Application for Zoning Variance (ZBA 2022-6) – Sanbornton Zoning**

Ordinance Article 6, Section A

Applicant: William & Bonita Ellis

Location: 191 Perley Hill Rd, Map 15/Lot 84

Applicant seeks variance to create 1.4-acre lot through subdivision whereas a minimum of 2 acres is required per the ordinance.

Will Ellis explained that he would like to subdivide this lot, creating a 1.4 acre lot where a house already exists which would make it non-conforming, and a 2-acre lot. He explained that he is getting older and may want to retire and may want to sell the 1-4 acre parcel or rent it; he does not have plans to sell the 2-acre lot. Audry Barriault asked if the 1.4 acre lot would meet all setback requirements of the ordinance for home and septic and Will responded Yes. Kevin Murray noted that there are already non-conforming lots on Perley Hill Rd.

Katie Suroweic explained that the ordinance changed in 1998 to require 2-acre lots and 220 feet of road frontage in the residential zone by vote of the Town, and the non-conforming lots existing on Perley Hill now were conforming prior to that change. Abutter Nina Gardner stated that the 1.4-acre lot that would be created is smaller than even the previous requirement of 1.5-acres and she does not believe the application meets the requirement for a hardship. She explained that the acreage was the same when it was purchased by the Ellis's and their application states that the creation of I-93 reduced the lot size, but this happened in the 1960's long before they purchased it.

Will stated that the ordinance allows for smaller lots through cluster developments and George responded that this application is not for a cluster development and it was purchased five years ago knowing the acreage. Kevin stated that he believes the applicant wants to get rid of the farmhouse on the 1.4-acre lot and Will responded that he has rented out the house out for 4 years and does not know what he wants to do with it yet.

The ZBA reviewed the variance application against the five variance criteria and voted as follows:

**Criterion #1: The variance will not be contrary to the public interest**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #2: The spirit of the ordinance is observed**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #3: Substantial justice is done**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #4: The values of surrounding properties are not diminished**

Dexter/Yes; Barriault/Yes; Murray/No; Riley/Abstain

**Criterion #5: Literal enforcement of the ordinance would result in an unnecessary hardship**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Sub-Category A: “The Relationship Test” or “The Reasonable Use Test”**

Dexter/No; Barriault/No; Murray/No; Riley/No

George Murray made a motion to deny the variance from Article 6, Section A. Kevin Riley seconded the motion and the motion passed unanimously. The applicant was reminded of the right to appeal this decision.

**b. Public hearing – Application for Zoning Variance (ZBA 2022-7) – Sanbornton Zoning**

Ordinance Article 15, Section F.1(b)

Applicant: Philip Gauthier

Location: Lot 2, Poplar Rd.

Applicant seeks variance to construct home 42' from wetland whereas a minimum of 75' is required per the ordinance.

Philip Gauthier explained that he moved to Sanbornton in the fall and has bought 3 acres of land on Poplar Rd. There is a log home kit sitting on the property now. He had applied for a CZC (building) permit but the builder started before the permit was granted. He has paid dooimage for this to the Town already. He stated that he needs this building variance due to being too close to the wetlands on the property and can't relocate the home because of a hill and he doesn't know what his setback is to the back of the property.

Kevin stated that he has walked the property and noticed the foundation is very deep, about 10-feet, and he doesn't see any bond-outs from the basements for where the septic is going to go. He also did not see any silt fence put up during construction which is standard. He added that there is a lot of wetlands around the area. Paul stated that if the CZC permit was processed it would have caught a lot of issues before construction began. As Fire Chief, he was called by the gas company about a tank being buried when he had not yet granted a permit for this.

George asked if a more complete plan exists because it sounds like many items are unknown to Philip. Philip responded that the small plan is all he received from his builder but he does have an approved septic design but doesn't have a paper plan for that. Katie Surowiec stated that she is a wetlands scientist and the septic design should have conditions listed on it and also locations of all structures on the property, but Philip said he has not seen this. Audry stated that Zoning Enforcement Officer Steve Laurin had informed her that the septic design is in compliance with setback requirements and a variance is not needed for that.

Kevin stated that he would like to see a true plot plan with the house, wetlands location, septic, propane tank and any other structures and other members agreed. Philip stated that he has not had the land surveyed; Audry stated that she would want to know where the boundaries actually are since this is a setback variance. Paul suggested Philip start with getting the blueprints of his septic design because that will show the structures of the property. Kevin noted that he saw drainage issues around the foundation that should be addressed and he urged the applicant to be more involved with his project.

The ZBA reviewed the variance application against the five variance criteria and voted as follows:

**Criterion #1: The variance will not be contrary to the public interest**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #2: The spirit of the ordinance is observed**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #3: Substantial justice is done**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #4: The values of surrounding properties are not diminished**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Criterion #5: Literal enforcement of the ordinance would result in an unnecessary hardship**

Dexter/No; Barriault/No; Murray/No; Riley/No

**Sub-Category A: “The Relationship Test” or “The Reasonable Use Test”**

Dexter/No; Barriault/No; Murray/No; Riley/No

Paul Dexter made a motion to deny the variance from Article 15, Section F.1(b) without prejudice. Kevin Riley seconded the motion and the motion passed unanimously.

**OTHER BUSINESS**

**a. Abutter fee change** – Audry explained that the Selectmen voted to change the fee schedule for ZBA per her request; abutter envelopes will now be \$10 each (which matches what the Planning Board charges) so that she can process and mail these rather than explaining to the applicants how to do it or fixing their mistakes. Members had no issues with this.

**Meeting adjourned at 8:20pm.**

Respectfully submitted,  
Audry Barriault