

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, October 25, 2022

Old Town Hall, 19 Meeting House Hill Rd

7:00pm

Present: Tim Lang, chair, Paul Dexter, member, Doug Rasp, member, George Murray, alternate, Glenn Frederick, member, Kevin Riley, alternate, Audry Barriault, secretary/alternate

Kevin Riley was seated as voting member.

a. Minutes of 8/30/22 – Paul Dexter made a motion to approve the draft minutes of 8/30. Kevin Riley seconded the motion and the motion passed, with Chair Tim Lang abstaining.

b. Public Hearing - Application for Variance (ZBA 2022-13)

Sanbornton Zoning Ordinance Article 4.X, Section 3(b)

Applicant: Brian Hamill

Location: 165 Hunkins Pond Rd

Purpose: Applicant requires variance for detached accessory dwelling unit at their non-primary residence. A variance was previously granted on December 28th, 2021 for same detached accessory dwelling unit to be accessed using driveway separate from that of main dwelling.

Audry explained that the new Zoning Enforcement Officer notified her that this ADU needs a second variance as the homeowners do not use the main dwelling as their primary residence as required in Article 4.X. There have been no changes to the ADU since the previous approval in December 2021 and the use is still for a livestock caretaker. Paul asked if there is a definition of “primary residence” in the ordinance and Audry responded that she could not find one. Chair Lang stated that he would default to the State’s definition which means the homeowner votes here which they do not. Glenn stated that he thinks it was an assumption that the homeowners lived here full-time but the question was not asked during the December hearing.

Paul stated that he not see any life safety issues with the ADU from the perspective of Fire Chief. Kevin added that he is concerned that the owner could sell the property in the future and could use it for a purpose other than a livestock caretaker. George stated that the ZBA doesn’t know what a future property owner may do. Glenn asked if the variance would go with the property owner or the property and Audry responded that it would stay with the property itself. Audry added that she believes the intent of the ordinance is to prevent absentee landlords or buying up properties just to do short-term rentals.

Chair Lang explained that maintaining the farm versus subdividing into home lots is in line with the Master Plan goal of preserving agriculture and open spaces, and the approval of the application would do substantial justice because the owners were already granted a variance for the ADU in 2021. Kevin stated that already being granted a variance for the ADU to be accessed using a separate driveway but not getting approval for this variance would be more of a hardship for the applicant than the livestock needing a caretaker in his opinion.

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/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

Criterion #2: The spirit of the ordinance is observed

Dexter/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

Criterion #3: Substantial justice is done

Dexter/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

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

Dexter/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

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

Dexter/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

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

Dexter/Yes; Lang/Yes; Frederick/Yes; Riley/Yes; Rasp/Yes

Kevin Riley made a motion to approve the variance. Paul Dexter seconded the motion and the motion passed unanimously. The 30-day period in which an appeal request can be submitted in regards to this case begins with the date of decision, October 25, 2022.

Meeting adjourned at 7:19pm.

Respectfully submitted,
Audry Barriault