

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, March 28, 2023

Old Town Hall, 19 Meeting House Hill Rd

7:00pm

Present: Paul Dexter, member, Doug Rasp, member, George Murray, alternate, Melissa Anderson, member, Audry Barriault, secretary/alternate

Audry Barriault and George Murray were seated as voting members.

a. Minutes of 10/25/22 – Paul Dexter made a motion to approve the draft minutes of 10/25. George Murray seconded the motion and the motion passed unanimously.

b. Public Hearing - Application for Variance (ZBA 2023-2)

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

Applicant: George Boyer, Evan Boyer as representative

Location: 258 Upper Bay Rd, Tax Map 10/Lot 108-1.

Applicant requires variance for detached accessory dwelling unit to be accessed using a driveway separate from that of the main dwelling.

Evan Boyer (representative for George Boyer) explained that there is a detached in-law apartment on his parents' property that was previously the candy store that already has its own driveway. He stated that he would like to live in this as affordable housing is hard to find and noted that no other changes will be made in regards to parking or drainage, though material has been added to the driveway. Abutter Paul Riendeau stated that he has had to add material to the end of his own driveway and he has noticed that drainage from the Boyer property may be an issue. George Murray asked if the culvert on the Boyer property is cleaned out regularly and Evan responded that it is. Paul Dexter asked Paul Riendeau if the drainage issue has been discussed with the Boyers and he stated that it has not and it is just something that he has noticed.

George stated that there should be assurance that the grade of the Boyer property is not changed so as to slope and drain onto the neighboring property; Evan explained that mud has been removed from the driveway and replaced with stable material but the grade does not change.

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; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Criterion #2: The spirit of the ordinance is observed

Dexter/Yes; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Criterion #3: Substantial justice is done

Dexter/Yes; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Dexter/Yes; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Dexter/Yes; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Dexter/Yes; Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Paul Dexter made a motion to approve the variance. Melissa Anderson seconded the motion and the motion passed unanimously. The applicant was reminded of the 30-day appeal period.

c. Public Hearing - Application for Variance (ZBA 2023-1)

Sanbornton Zoning Ordinance Article 10.A, Section 1&2

Applicant: WPRC Association (David Longval, Bradford Sauter, Phil Tucker and Dustin Martels)

Location: 1000 Laconia Rd, Tax Map 24/Lots 022-001, 002, 003 and 004.

Applicant requires variance for mixed-use occupancy of residential and commercial.

The applicants were advised that there will be a short board of only four members instead of five, as Paul Dexter recused himself. They decided to proceed with a short board. Audry explained that the zoning ordinance allows for commercial use and residential use but does not explicitly say that mixed-use in one building is allowed, therefore a variance is needed. David Longval explained that the condo association's bylaws were amended in 2011 to allow for residential use and these were signed off on by the Planning Board Chair at the time, Don Bormes. The owners believed they had approval for residential use and have had a mix of commercial businesses and apartment rentals for ten years; he no longer needs his unit for commercial as his employees all work from home since COVID began. He noted that adjacent towns already allow for mixed occupancy but Sanbornton does not; the office unit he owns has been used for two studio apartments and another owner's unit has several residential tenants as well.

Speaking as Fire Chief, Paul Dexter stated he has developed an improvement plan with David Longval to make his unit as safe as possible in the interim including smoke and carbon monoxide detectors, emergency lighting, etc. but the entire building would still need to be sprinkled, not just his own unit. George noted that the owner of the unit that also has residential tenants is not here; David responded that the association voted 3-1 to proceed with this application and that other owner is seeking his own legal advice right now. Donna Ledgard stated that she is concerned about the safety of all the tenants in all units and if the variance is approved they will continue to be unsafe until improvements are made. Zoning Enforcement Officer Mark Ledgard explained that if the variance is approved the applicants will then proceed to the Planning Board who will review a site plan and address the safety concerns.

Audry noted that the intent of the ordinance is unclear; if there was an alleyway separating a residential unit from a commercial unit the variance would not be needed, but sharing a wall means it is. She added that while the owners could have done more to make sure they were fully approved with the Town to have residential units back in 2011, a sign-off from the Planning Board Chair at the time was an indication that they could proceed.

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

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Criterion #2: The spirit of the ordinance is observed

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Criterion #3: Substantial justice is done

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

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

Anderson/Yes; Barriault/Yes; Murray/Yes; Rasp/Yes

Melissa Anderson made a motion to approve the variance. George Murray seconded the motion and the motion passed unanimously. The applicants were reminded of the 30-day appeal period.

d. ZBA Membership – A full member position is open due to Glenn Frederick being elected as a Selectman. Paul Dexter made a motion to recommend the appointment of George Murray as full ZBA member by the Selectmen. Doug Rasp seconded the motion and the motion passed unanimously. Brittany Davis was in attendance and stated that she is interested in being an alternate on the ZBA; she has background in real estate and has lived in Sanbornton since 2017. Doug Rasp made a motion to recommend the appointment of Brittany Davis as alternate ZBA member by the Selectmen. Melissa Anderson seconded the motion and the motion passed unanimously.

Theo Brackett was in attendance and also expressed an interest in being an alternate member; he has lived in Sanbornton since 2015 and has discussed the position with ZBA Chair Tim Lang. Melissa Anderson made a motion to recommend the appointment of Theo Brackett as alternate ZBA member by the Selectmen. Doug Rasp seconded the motion and the motion passed unanimously.

Meeting adjourned at 8:13pm.

Respectfully submitted,
Audry Barriault