

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, April 25th, 2023

Old Town Hall, 19 Meeting House Hill Rd

7:00pm

Present: Tim Lang, Chair, Paul Dexter, member, George Murray, member, Theo Brackett, alternate, Brittany Davis, alternate, Kevin Riley, alternate, Audry Barriault, secretary/alternate, Doug Rasp, member (arrived late)

Brittany Davis and Theo Brackett were seated as voting members.

a. Minutes of 3/28/23 – Paul Dexter made a motion to approve the draft minutes of 3/23. George Murray seconded the motion and the motion passed unanimously.

b. Public Hearing - Application for Variance (ZBA 2023-3)

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

Applicant: Ryan and Pamela Kuczkowski

Location: 117 Perkins Rd

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

Pam Kuczkowski explained that she would like to build an ADU for her mother to use in the future. This would be located at the bottom elevation of her property that has frontage; there is currently a landing there but not a true driveway. Paul Dexter stated that the purpose of an accessory dwelling unit is to be an accessory to the main dwelling but this would be 400 feet from the main dwelling; he is concerned that these would be two distinctly different dwellings far apart from each other. He noted that this six-acre parcel in the Agricultural zone could be subdivided into two 3-acre parcels. Audry Barriault stated that there is nearly 600 feet of road frontage which is more than adequate for two separate building lots and agrees that it could be subdivided. Kevin Riley noted that the variance request would break the rules for something that the applicant could already do within the rules.

Chair Tim Lang stated that he would like to see the rural nature of the community maintained rather than see the property subdivided and a larger home built rather than a small accessory dwelling. Paul stated that there doesn't seem to be a hardship if there is already a feasible option, which is a subdivision. George Murray asked if there could be room for a septic system for an ADU closer to the house so that it could use the same driveway. Chair Lang stated that he would be in favor of tabling the application until the applicant can research and find out if there is space for this so that a variance would not be needed. Donna Ledgard explained that the ordinance requires that a septic designer needs to certify that the existing septic can support an ADU, not adding an additional system.

George Murray made a motion to table the application and continue to the next meeting, May 23rd. Paul Dexter seconded the motion and the motion passed unanimously. Audry noted that a continued meeting means that abutters will not be noticed again.

c. Public Hearing - Application for Variance (ZBA 2023-4)

Sanbornton Zoning Ordinance Article 8, Section A(15)

Applicant: Brendan Morrison

Location: 18 Chalet Rd

Applicant seeks variance to allow construction of single car garage 2 feet from side property line whereas 10 feet is required per the ordinance.

Brendan Morrison explained that he would like to build a 16x22 single car garage. His home was purchased as vacation home but has been his full-time residence for years and he does not want to have to clear his car off in the winter. The layout of his property slopes down in all directions from his house and there is ledge underneath.

Chair Lang asked if the ledge could be broken up and Brendan responded that it could not be, it would need to be blasted. Kevin asked if he could raise grade over the ledge to make a flatter spot for the garage away from the property line; Brendan responded that doing that would make the entrance to the garage very steep. Audry stated that the proposed garage would be so close to the boundary line that the ladder used for building the garage would be on the neighbor's property.

George asked if the abutting property owner may be amenable to selling a sliver of land so that the setback can be met; Brendan stated that the abutting property is in conservation. George stated that even if a conservation easement doesn't allow for development, purchasing a piece to use as a buffer may not count as development. Kevin stated that the expense of doing that would be higher than bringing in fill and raising the grade of the land. George noted that the applicant is requesting 80% of the setback requirement to be waived in this variance request. Kevin stated that one of the variance worksheet questions asks the ZBA to determine that the property cannot be reasonably used in strict conformance with the ordinance. He stated that the applicant can still use the property if the variance isn't granted, he would just have to continue clearing snow off his car.

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

Criterion #2: The spirit of the ordinance is observed

Lang/Yes; Murray/No; Dexter/Yes; Davis/Yes; Brackett/Yes

Criterion #3: Substantial justice is done

Lang/Yes; Murray/No; Dexter/Yes; Davis/Yes; Brackett/Yes

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

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

Lang/Yes; Murray/No; Dexter/Yes; Davis/Yes; Brackett/Yes

Sub-Category A: "The Relationship Test" or "The Reasonable Use Test"

Lang/Yes; Murray/No; Dexter/Yes; Davis/Yes; Brackett/Yes

Paul Dexter made a motion to approve the variance. Theo Brackett seconded the motion and the motion passed 4-1, with George Murray voting No. The applicants were reminded of the 30-day appeal period.

d. Public Hearing - Application for Variance (ZBA 2023-5)

Sanbornton Zoning Ordinance Article 15, Section F.1(b) and Article 8.A(5&6)

Applicant: Mark Bergeron

Location: 328 Black Brook Rd

Applicant seeks variance for construction of septic system 78 feet from wetlands whereas 100 feet is required per the ordinance and construction of home 35 feet from wetlands whereas 75 feet is required. Applicant seeks variance for side setback of 8 feet and front setback of 10 feet for construction of home whereas setbacks of 10 feet and 30 feet are required, respectively, per the ordinance.

Chair Lang stated that Zoning Enforcement Officer Mark Ledgard provided a letter to members regarding this non-conforming lot. Mark Bergeron stated that the modern septic system design that has been approved by the Selectmen will be an improvement on the last one; though he will not meet the side/front/wetlands stream setbacks for the proposed new home he has moved it further back from the lake than the previous home.

Doug Rasp stated that the new septic system design is environmentally friendly to the lake. Abutter Bruno Mastrocola asked if the new septic is close to the stream that runs through the property and Mark responded that it is not, it is as far from that stream as possible.

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

Criterion #2: The spirit of the ordinance is observed

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

Criterion #3: Substantial justice is done

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

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

Lang/Yes; Murray/Yes; Dexter/Yes; Davis/Yes; Brackett/Yes

Paul Dexter made a motion to approve the variances as requested. George Murray seconded the motion and the motion passed unanimously. The applicants were reminded of the 30-day appeal period.

e. ZBA Membership – Chair Lang made a motion to accept Steve Cobb’s resignation with regrets and thanked him for his years of services as an alternate. George Murray seconded the motion and the motion passed unanimously.

Chair Lang made is a motion to recommend that the BOS re-appoint Kevin Riley as alternate. Paul Dexter seconded the motion and the motion passed unanimously.

Audry noted that Chair Lang’s term has expired; he will decide next month if he would like to be re-appointed.

Kevin requested meeting earlier than the regular 7pm meeting next month to discuss the spirit of the ordinance and determining hardships. He is concerned about the reasons for granting variances and does not think that an applicant not wanting to shovel snow is a good reason; he suggested having the Town’s attorney present to discuss. Chair Lang stated that he will look into this.

Meeting adjourned at 8:22pm.

Respectfully submitted,
Audry Barriault