

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, July 25th, 2023

Old Town Hall, 19 Meeting House Hill Rd

7:00pm

Present: Theo Brackett, alternate, Audry Barriault, secretary/alternate, Doug Rasp, member

Theo Brackett and Audry Barriault were seated as voting members.

a. Minutes of 6/27/23 – Doug Rasp made a motion to approve the draft minutes of 6/27. Theo Brackett seconded the motion and the motion passed unanimously.

b. Public Hearing - Application for Variance (ZBA 2023-7)

Sanbornton Zoning Ordinance Article 15 f.1(b)

Applicant: John Claridge

Location: 97 Shaw Hill Rd, Tax Map 20/Lot 36.10A

Applicant seeks variance for already-constructed deck closer to wetlands than as permitted per the ordinance.

Audry read a memo from Zoning Enforcement Officer Mark Ledgard regarding this application. Mark had stated that the deck was not on the plans that were approved under building permit #4562. He also observed that fill from Mr. Claridge's lawn extended into the wetlands area and sump pumps are pumping water from the basement to the wetlands area; DES was made aware of this and has requested mitigation measures of Mr. Claridge. Mark stated that he does not believe the property owner has demonstrated an unnecessary hardship and noted that the home itself was constructed closer to the wetlands than what was shown on plans.

Mr. Claridge explained that when he began construction in August 2022 the area was very dry; leaving the deck off his plans used for the building permit was an oversight and not done on purpose. He stated that he never saw a sign of a wetland and he would not be harming any neighbors by keeping his deck. Mr. Claridge added that none of his neighbors that received notices about this meeting have showed up to express their concern and he has already had his property assessed and paid taxes on the deck this year.

Theo asked why the map used in this application shows the deck 60 feet to the wetlands while Mark's memo says it's 30 feet and Mr. Claridge responded that when he walked the area yesterday it was dry. Doug stated that Mr. Claridge owns the property 150 feet into the area considered to be wetlands and added that June had an unprecedented 26 days of rain. Theo asked about the home being constructed closer to wetlands than planned and Mr. Claridge responded that it is in a different location compared with the previous owner's building permit plans. Theo asked about the sump pumps diverting water from the basement to the wetlands and Mr. Claridge responded that this water is dispersed past the deck 15 feet; the land is very sandy and located on an aquifer.

Audry asked how difficult it would be to move the deck to another location that would not encroach on wetlands setbacks. Mr. Claridge responded that there wouldn't be another place that it would make sense to have a deck and he already has a slider door to access the deck. Audry asked if the wetlands have been delineated by a wetlands scientist and Mr. Claridge stated that this would have been done during the original subdivision which was probably less than 10 years ago.

Audry stated that she does not have an issue with the deck itself and does not think that it will harm neighbors, their property values, or any wetlands, but she does not see a hardship for the owner. She stated that it's unfortunate that the structure was left off the building plans and unfortunate that there is a slider door installed that would not lead to a deck if this variance is not granted, but these things are not true hardships and use of the property will not be impeded if there is no deck.

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

Brackett/Yes; Rasp/Yes; Barriault/Yes

Criterion #2: The spirit of the ordinance is observed

Brackett/Yes; Rasp/Yes; Barriault/No

Criterion #3: Substantial justice is done

Brackett/Yes; Rasp/Yes; Barriault/No

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

Brackett/Yes; Rasp/Yes; Barriault/Yes

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

Brackett/Yes; Rasp/Yes; Barriault/No

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

Brackett/Yes; Rasp/Yes; Barriault/Yes

Audry Barriault made a motion to approve the variance. Theo Brackett seconded the motion and the motion passed 2-1, with Audry Barriault voting No.

c. ZBA Membership – Audry stated that Melissa Anderson has resigned as a member. Doug Rasp made a motion to accept her resignation with regrets. Theo Brackett seconded the motion and the motion passed unanimously.

Doug Rasp made a motion to recommend Kevin Riley as full member, moving up from alternate. Theo Brackett seconded the motion and the motion passed unanimously.

Doug requested that the BOS write a letter thanking Melissa for her years of service, as well as a letter and plaque for Tim Lang. Audry stated that she will relay this information to the Town Administrator.

Meeting adjourned at 8:00pm.

Respectfully submitted,
Audry Barriault