

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, September 26th 2023

Old Town Hall, 19 Meeting House Hill Rd

7:00pm

Members present: Brittany Davis, Chair, Theo Brackett, Doug Rasp, Kevin Riley, Mark Ledgard

Alternates present: Audry Barriault, Randy Gaudette, Ralph Carter, Mark Brown

a. Swearing in – Selectman Brandon Deacon was in attendance and able to swear in Ralph Carter as alternate and Theo Brackett as full member.

b. Minutes – Chair Davis made a motion to approve the draft minutes of 8/22. Doug Rasp seconded the motion and the motion passed unanimously. Chair Davis made a motion to approve the draft minutes of 9/5. Kevin Riley seconded the motion and the motion passed unanimously.

c. Public Hearing - Application for Variance (ZBA 2023-8)

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.

Mark Ledgard recused himself. Mark Brown was seated as voting member. Chair Davis reminded members that this hearing is regarding the property itself and should be treated as a new application.

Mr. Claridge stated that the deck he constructed does not hurt anyone; he has had Selectman Bob Lambert at his house as well as Jody Slack from the Planning Board and neither had concerns about the deck. He added that construction was during a dry time of year and when the former Zoning Enforcement Officer Mark Ledgard came out to measure it was wet.

Kevin explained that the memo from Mark Ledgard states that the house was not constructed in the location that was shown in the plans when the permit was obtained and has measured the deck as being only 30 feet from wetlands when 75 feet is required. Mr. Claridge responded that he did not purposefully try to move the house closer to the wetlands and the area was dry at the time. Mark Brown stated that the building permit was for a home 84 feet in length but it is shown as being 96 feet long and asked which is the actual measurement. Mr. Claridge responded that it is 96 feet long.

Ralph Carter stated that the area around this property is susceptible to flooding. Mr. Claridge said that the area is dry right now. Doug Rasp stated that he does not believe the wetlands will be harmed and Mr. Claridge owns 75% of the wetlands shown on the map. Mark Brown responded that it does not matter who owns the wetlands that may be affected. Chair Davis noted that the reasons for the wetlands setback requirement is explained in the memo from Mark Ledgard and includes protection of water quality and wildlife habitat.

Kevin stated that the ZBA is not concerned if the area is dry right now or not because the wetlands area is delineated; a determination needs to be made whether there is a hardship in this instance. He added that the ordinance was voted on by the Town and he would need a good reason to go against what the Town has voted on. Abutter Tracy Woodman stated that she believes granting a variance would set a precedent for others who construct without obtaining a permit and she does not see a hardship in this case.

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

Davis/No; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

Criterion #2: The spirit of the ordinance is observed

Davis/No; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

Criterion #3: Substantial justice is done

Davis/No; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

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

Davis/Yes; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

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

Davis/No; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

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

Davis/Yes; Brown/No; Riley/No; Brackett/Yes; Rasp/Yes

Kevin stated that he believes values of area properties would be diminished if those property owners enjoy wildlife whose habitat may be affected by structures encroaching into wetlands. Chair Davis stated that she does not think a deck in itself is an unreasonable request but allowing it sets a precedent for people who build without a permit. Kevin responded that he does not think it's reasonable because the ordinance says that it's not and he sees no demonstration of hardship.

Chair Brittany Davis made a motion to approve the variance. Kevin Riley seconded the motion and the motion failed 4-1, with Theo Brackett voting Yes. Mr. Claridge was advised that he has 30 days to remove the deck. He asked if a set of steps could be built in place of the deck as there are sliding doors that open to the deck. Kevin responded that he can apply for a building permit for steps and if denied he will need to obtain a variance.

Mark Ledgard was seated as member again.

d. Training - Members who wish to attend the in-person ZBA training on October 21st have been registered by the Town Administrator.

e. Membership – Chair Davis explained that Erica Webb has applied to be an alternate and read her application to the board. Chair Davis made a motion to recommend Erica Webb as alternate member. Kevin Riley seconded the motion and the motion passed unanimously.

f. Fines – Chair Davis explained that she and Audry have discussed asking the Board of Selectmen to create a fine schedule for people who violate the ordinance. Ralph suggested that the ZBA create a list of suggested fines and then send their recommendations to the BOS. Kevin stated that the fines should in place to get people's attention; Mark Ledgard stated that certain types of development will have greater impact and that should be taken into consideration. Chair Davis will look at the fines that other towns impose and recommended meeting in October to discuss, as well as meeting more regularly to discuss changes needed in the ordinance. These can then be sent to the Planning Board for consideration. Members were in agreement to meet regularly even if there are no applications.

Meeting adjourned at 8:20pm. The next meeting is scheduled for Tuesday, October 24th at 7pm.

Respectfully submitted,
Audry Barriault