

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

Tuesday, November 28th, 2023

Old Town Hall, 19 Meeting House Hill Rd

6:00pm

Members present: Chair Brittany Davis, Kevin Riley, Theo Brackett (arrived late)

Alternates present: Randy Gaudette, Ralph Carter, Mark Brown, Erica Webb (arrived late)

(Randy, Ralph and Mark seated as voting members)

- a. **Minutes** – Ralph Carter made a motion to approve the draft minutes of 10/24 with corrections. Mark Brown seconded the motion and the motion passed unanimously.

- b. **ZBA FY25 budget** – Mark Brown suggested adding \$300 to the line for Trainings/Conferences for a total of \$500; with an average cost of \$100 per person per training and five members he feels this is an appropriate number and members agreed. Audry explained that the line for Advertising can stay the same; the spending for newspaper notices has decreased since she began including the bare minimum information required in those notices (the cost for ads is per word). Mark calculated 84 hours per year for the Secretary/Clerk line, as additional hours for the recording secretary will be needed for workshop meetings which the Board would like to continue.

Ralph explained that he spoke with the Board of Selectmen about the ZBA having a line for its own legal counsel and they advised that the ZBA find a land use attorney. He proposed \$2,000 for the line and added that NHMA will still be used when possible but for specific questions the ZBA should have its own counsel. Mark Brown made a motion to add a line for Legal Expense for \$2,000. Ralph Carter seconded the motion and the motion passed unanimously.

Ralph Carter made a motion to submit the ZBA budget to the BOS in the amount of \$5,590 with changes to FICA and Medicare to be determined by the BOS. Randy Gaudette seconded the motion and the motion passed unanimously.

- c. **Discussion of “Application Types, Hearings, Appeals, and Application Instructions” document** – Members reviewed the document drafted by Mark Ledgard. Regarding Section 2, Special Exception. In section 4, Equitable Waiver of Dimensional Requirements, members agreed to revise the first statement to read “The board may grant an equitable waiver only for existing dimensional nonconformities provided the applicant meet the following standards:”.

- d. **Public Hearing (opened at 7:02) – Application for Variance (ZBA 2023-09)**

Sanbornton Zoning Ordinance Article 15, Section F.1.b

Applicant: Roger and Joanne Gaudette

Location: 9 Cottage Dr, Tax Map 11, Lot 30

Applicant seeks variance for construction of screened sun porch closer to wetlands than as permitted per the ordinance.

Roger Gaudette explained that he would like to construct a three-season porch/sunroom; his existing porch will be used for this but with an extension of four feet. He stated that the porch will not be any closer to the wetlands than the house is which was built in 1975; the setback requirement is 75’ and the home is 70’ from wetlands. The lot is non-conforming and Roger added that the water drains down towards his house from the other lots in his neighborhood; he has over an acre of land but only 15% of it is usable. He plans for the roof of the sunroom to drain into a raised shrub bed.

Roger explained that he has spent thousands to repair the joist in his house because the crawl space is very wet and the new roof will help divert water away from the foundation.

Ralph stated that he is concerned about the flow of water off the new roof; Roger explained that there will be gutters to redirect it. Theo asked if the new porch will use sauna tubes for a foundation and Roger responded Yes. Ralph asked if there is ledge in the area and Roger explained that it is all sand. Chair Davis noted that the property was built before setbacks were established in the ordinance. Mark stated that if the additional four feet wasn't being added then a variance wouldn't be needed. Joanne Gaudette stated that without adding the four feet the sunroom wouldn't be worth building as the extra space is needed for furniture. Kevin asked if there are plans for where the water will be diverted and Roger explained that he can get this information. Kevin stated that he feels that the property can still be used as is and he doesn't see a hardship.

Mark stated that he would like to ask NHMA about existing non-conforming lots becoming more non-conforming. Kevin stated that a contractor may be able to come up with a solution that doesn't require adding the four feet of space. Ralph requested that a rain runoff calculation, absorption and site plan are provided at the next meeting by the applicants. Chair Davis noted that DES can assist with this; Erica added that runoff calculations can be done easily online.

Kevin Riley made a motion to continue the hearing to Thursday, December 28th at 7pm. Ralph Carter seconded the motion and the motion passed unanimously.

e. Public Hearing – Application for Variance (ZBA 2023-10)

Sanbornton Zoning Ordinance Article 2(1)

Applicant: Rachel Paige/Bryan Bailey Associates

Property Owner: Edward Paige

Location: 35 March Rd, Tax Map 27, Lot 30-1

Applicant seeks variance to subdivide lot with less than 220' of road frontage and less than 3 acres in the General Agriculture district.

Kevin stated that the application appears to be complete but the applicant is absent. He stated that he does not believe the ZBA has the authority to create a non-conforming lot and the lot can be used as is; no hardship has been demonstrated.

The ZBA reviewed the variance application against the five criteria and voted as follows:

Criterion #1: The variance will not be contrary to the public interest

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No

Members agreed that the variance would be contrary to the public interest because it would create a lot smaller than as allowed per the ordinance for the General Agricultural zoning district.

Criterion #2: The spirit of the ordinance is observed

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No

Members agreed that the spirit of the ordinance would not be observed if a non-conforming lot was to be created.

Criterion #3: Substantial justice is done

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No

Members agreed that the property can be used as is without the variance being granted.

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

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No

Members agreed that surrounding property values would be diminished because the lot would not meet the requirements of the ordinance.

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

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No
Members agreed that no hardship has been demonstrated.

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

Davis/No; Brown/No; Riley/No; Gaudette/No; Carter/No

Members agreed that the request for variance is not reasonable as it creates a non-conforming lot which the ZBA does not have the authority to do.

Ralph Carter made a motion to deny the variance request as it creates a non-conforming lot which the ZBA does not have the authority to do. Kevin Riley seconded the motion and the motion passed unanimously.

Meeting adjourned at 8:08 pm. The next meeting is scheduled for Thursday, December 28th at **6pm** (workshop start time).

Respectfully submitted,

Audry Barriault