

**TOWN OF EPSOM
ZONING BOARD OF ADJUSTMENT
Epsom Central School, 282 Black Hall Road, Epsom, New Hampshire
March 20, 2024, 6:30 PM**

PRESENT

Glenn Horner, Chair
Jason Johnson, Member
Lisa Thorne, Member
Gary Kitson, Member
Lyla Boyajian, Alternate Member
Roger Rheume, Alternate Member

ALSO PRESENT

Jennifer Riel, Recording Secretary
Virginia Drew, Board of Selectmen Representative
Justin Guth, Zoning Compliance Officer
Rob Topik, resident
Joe Austin, resident

CALL TO ORDER

Chair Horner called the meeting to order at 6:30 PM.

Introductions were made of the Board members. Chair Horner asked Mr. Matteson and Ms. Boyajian to sit on the Board as voting members for the case.

APPROVAL OF MINUTES

Meeting of March 6, 2024 – Edits were made. **MOTION: To approve the minutes as amended. Motion by Mr. Johnson. Second by Ms. Boyajian. Motion passed unanimously.**

Case 2024-01 (Terry – Var.) – Attorney Arianna McQuarrie, on behalf of Michael Novak owner of the subject property, has requested the Board of Adjustment reconsider its January 31st 2024 decision denying a variance to Article III, Section G [Residential Single and Multi-Family Residence Requirements], paragraph 1 [Single Family Requirements] b. [Building Lots] to build a single family residence on a pre-existing lot with no public road frontage (200 feet required). The property is located on Chestnut Pond Road (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-19 as Lot 46.

The Board reviewed and discussed the evidence submitted regarding the Motion to Reconsider.

Ms. Boyajian stated she is confused by the letter submitted with the evidence; she stated she is unclear of this is a case that needs a variance. She asked if all the other houses built in 1973 when the land was subdivided, had to come for variance. She stated most subdivisions today would require a private road to get houses built; she stated it would seem to be a hassle to require variances for subdivided land that was previously approved. Chair Horner referenced the

Subdivision regulations, noting the expectations and specifications of a public road that is accepted by the Town. It was clarified the problem is that the road is private. Chair Horner stated the private road doesn't meet the subdivision regulations at this time. He stated the variance was initially requested because a building permit was denied; he explained the applicants could pursue an Administrative Appeal based on RSAs. Chair Horner stated if the Board rehears this case, Town Counsel will need to weigh in on the ordinances. He stated the evidence submitted is to support the need for a variance.

Mr. Rheume stated the evidence indicates the lots were created prior to 1973; he stated it was approved by the Planning Board at that time and noted regard wasn't given to lot sizes, frontage, etc.; he stated the Captain of the Fire Department indicated there are no problems with going down the road. Chair Horner stated if this case is reheard, he wants clarification from the Fire Department as to whether they were referring to the private or paved portion of Chestnut Pond Road.

Ms. Thorne stated any case could go for a rehearing and just because a large amount of evidence was submitted, doesn't mean it is new information.

Mr. Johnson stated prior to hearing the case initially, he wasn't aware of RSA 674:41, particularly section III which indicates it shall supersede any less stringent codes and no exiting tract of land shall be exempted. He stated this is a preemptive state zoning law so that has to be what guides this. He stated the RSA is very restrictive so in the majority of cases, if the Planning Board hasn't approved a subdivision, it gives the Zoning Board the ability to say "No," except in the cases that are exempted. Chair Horner asked if Mr. Johnson has discussed building on private roads with the Board of Selectmen. Mr. Johnson stated the Board has been presented with the same information and have not made a decision for proceeding. Chair Horner stated if there is no process in place, he questions why they would go forward. He stated if the Board of Selectmen decide "no", the applicant can still appeal that decision to the ZBA. Mr. Johnson stated he was not aware of this RSA until after the case was heard and he started looking into it further. He stated they don't have a decision whether they can follow or ignore State law. Chair Horner suggested they need legal advice as to whether what the Board has been doing for the last 20 years, is appropriate.

Ms. Thorne stated she agrees with seeking the advice of Town Counsel, particularly with regard to the RSAs.

MOTION: To grant the Request for a Rehearing submitted by Attorney Arianna McQuarrie, on behalf of Michael Novak, owner of the subject property, to reconsider its January 31st 2024 decision denying a variance to Article III, Section G [Residential Single and Multi-Family Residence Requirements], paragraph 1 [Single Family Requirements] b. [Building Lots] to build a single family residence on a pre-existing lot with no public road frontage (200 feet required). The property is located on Chestnut Pond Road (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-19 as Lot 46.

Motion by Mr. Johnson. Second by Mr. Rheaume. Motion passed unanimously.

Chair Horner stated the public hearing will be scheduled for April 3, 2024, 6:30 PM.

The Board reviewed and discussed the Zoning Board of Adjustment Rules and Procedures for Public Hearings.

Chair Horner stated after the recent elections, Mr. Quimby is no longer a member of the Board; he stated the Board of Selectman have appointed Gary Matteson as a full member of the Zoning Board.

MOTION: To appoint Gary Matteson as Vice Chair of the Zoning Board. Motion by Chair Horner. Second by Mr. Kitson. Motion passed unanimously.

Public Input

Rob Topik, resident, stated in regard to the rehearing request, the Board discussed whether there was new evidence, and the presentation of the RSA seems to be a good reason to rehear a case. Mr. Johnson noted the RSA was referenced in the appeal package and part of the evidence submitted.

ADJOURN: To adjourn. Motion by Mr. Johnson. Second by Ms. Thorne. Motion passed unanimously.

The meeting was adjourned at 7:30 PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary