

**Town of Epsom**

**Zoning Board of Adjustment  
3/18/09**

**In attendance:** Glenn Horner, Chairman; George Carlson, Vice Chairman; Rick Belanger; Alan Quimby; Mark Riedel; Pam Hoyt-Denison (Alternate); Darlene Phelps, Recording Secretary;

**Not In attendance:** Keith Cota, Selectman's Representative

**Also in attendance:** Kevin Reeves; Eric Reeves; David Mihachik; Robert Reeves; Robert Russell; Sue Russell; John Hickey; Joe Wichert; Leon Jaworski; Gordon Snyder; Jack Prendiville

7:00 PM Glenn opened the meeting. The minutes of 2/18/09 were reviewed. Rick made a motion to approve the minutes as amended. Alan seconded the motion. All in favor. Glenn explained the procedure for the meeting and introduced the members of the board.

**Case 2009-02 (Reeves) Eric J. Reeves has applied for a variance to Article III, Section G [Residential Single and Multifamily Residence Requirements], Subsection 3 [Multi-Family Residences with Three or More Units] to permit the conversion of a detached garage into an additional residence on the property. The property is located on Black Hall Road within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-13 as Lot 44.**

Glenn said all abutters were notified by certified mail and the Public Hearing was properly posted in two public places, along with the Concord Monitor. He said all return receipts have been received with the exception of Robert Allen Russell & Mark Berube.

The property has a duplex on it, along with a garage that has living space in it.

Eric said many years ago his grandmother lived in a trailer in the same area where a few years ago he built a garage, and thought that perhaps in his old age, he may want to live in the garage, and so he built it that way. A few months ago a friend of his went through a divorce and needed a place to stay, so he let him stay in the garage. He does not ever intend to rent it. He is here because it was reported to Jay Hickey that there was an illegal apartment in his barn.

Eric does not call this an apartment, however it does appear to be a residence; with a kitchen, bathroom, bedrooms, closet, etc. There was discussion about the possibility of this being called an in-law apartment, but it's not connected to a house.

He has met with the Fire Department and they required him to bond the gas line, put in fire doors, and install smoke detectors.

Rick Belanger stated that he went down & inspected it and in order to get to the living area, you have to walk through the garage. It is certainly not a suitable rental, but it serves him well when he is plowing and needs to catch some sleep in the middle of the night, and is helping his friend until his house is built. Rick asked him if he's interested in subdividing, and Eric said no – because he's not interested in renting the living space.

Jay Hickey, Zoning Compliance Officer stated that the town zoning ordinances do not discriminate between part time & full time residency. Jay stated that the permit for this garage was for storage only. He directed Eric to the Fire Department to address the life safety issues, which Eric has addressed. Eric said he needs to be able to let his friend stay there until June, and Jay suggested that the ZBA may be able to come up with a solution to allow this. Eric has since decided that since he has incurred the expense of this Public Hearing, he might as well

see if he can come to a permanent resolution so he will not have to come before the board again.

Kevin Reeves is an abutter and said he was the one who obtained the building permit originally, but then sold the property to Eric. He said this is no different than the majority of people in town who have garages with beds, bathrooms, etc. in them.

Robert Reeves, is also an abutter and has no opposition to the application.

Sue & Robert Russell are abutters and are not opposed to this, they are here to see what the notice meant by "multi-family". They are certainly not opposed to the situation as it has been described.

There was much discussion about removing one of the bedrooms, only allowing adults, etc. Jay suggested that perhaps we consult with Tony Soltani for some advice. Pam asked if this could be considered a "guest house". Alan asked if there is a CO on the garage and Jay said no, because it was listed on the permit as being used for storage. Rick read through the Zoning Ordinances and Eric meets all the land requirements for multi-family use, however the Zoning Ordinance appears to contradict itself by saying all living space must be in one structure (III G, 3a ii)– and another place states the buildings must be 100' apart (III G, 3e).

A meeting will be scheduled with Tony Soltani. Mark suggested we continue for 60 days to give Eric time to weigh all of his options, and allow the board time to meet with Tony.

Rick made a motion to postpone this Public Hearing until May 20, 2009. Alan seconded the motion. All in favor.

#### **8:15 PM**

**Case 2009-03 (Jaworski) Leon J. Jaworski has applied for a variance to Article III, Section G. [Residential Single and Multi-Family Residence Requirements], Subsection 1.b [Building Lots] to permit the construction of a single-family residence on a lot containing 1 acre (2 acres required). The property is located on New Rye Road within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map R-2 as Lot 56.**

Glenn stated that all abutters have been notified by certified mail and all return receipts have been received except Evelyn Wead & Gary C Little. This Public Hearing was properly posted in two public places & in the Concord Monitor.

Attorney Gordon Snyder is representing Mr. Jaworski and said this property has been in the Jaworski family for over 70 years. There is over 250' road frontage, and they meet all required setbacks. The lot is just over one acre of land.

Attorney Snyder stated that this will not diminish surrounding property values, it meets the public interest requirement because it allows an individual to use his property. He cannot achieve the benefit by some other method. His family has been paying taxes on this property for over 70 years, and there is no other benefit to him other than to build a house on it. The lot is in the residential district and meets all requirements other than lot size. There are several other properties in the area that are less than 2 acres. Jack Prendiville of Century 21 is in attendance to testify that this will not diminish surrounding property values, and could possibly increase property values. Glenn wonders if a new starter home will fit in an area of old New Englanders. Joe Wichert surveyed the property beginning in 2006. The town tax map shows that this property is 2.8 acres, however the deed, and the survey shows that there is a property of 1.8 acres behind his, and the owner is unknown, and his property is 1.0 acre. He has been paying taxes on 2.8 acres, so he has requested a tax abatement from the town just within the past two weeks. Glenn feels the applicant should instead try to acquire ownership of the 1.8 acre lot, instead of requesting the abatement and asking for a variance. Attorney Snyder does not feel it's so easy to obtain ownership of the land (quiet title), and said the deed clearly shows that it's not owned by Mr. Jaworski. Glenn feels strongly that he should try to acquire the 1.8 acres.

Attorney Snyder stated that just by paying taxes on the property for over 70 years does not make him the owner and doing a quiet title is very expensive. Mr. Jaworski consulted with another attorney before Gordon Snyder and they discouraged him from trying to obtain that additional property. The evidence shows this is not his property. Joe said they did extensive research back to 1922 on that 1.8 parcel and could not find where that property was ever transferred. Joe said they approached the neighbors to do a boundary line adjustment to obtain additional property and they were unwilling to do so.

The 1.8 acres in the back does have access – it is not land locked.

Joe has prepared a septic design, but has not submitted it yet because of the wetlands crossing on the property. He would ask the board to consider an approval conditional upon an approved septic design. They do not want to incur the expense of the dredge & fill permit until they get the variance.

The intent is for a small 3 bedroom house; 24' x 26' house with a garage.

Jay Hickey asked how much land will be left when the wetlands are excluded. Joe replied about 32-33K Square feet. There are some steep slopes by the stone wall.

Rick feels we need to consult with Tony.

Alan made a motion to continue this Public Hearing to April 15, 2009. Rick seconded the motion. All in favor.

#### **9:10 PM**

**Case 2009-01 (Kings Towne) – James Bianco Jr., representing Kings Towne Mobile Home Park (MHP) L.P., has applied for reconsideration of a prior court settlement pertaining to the development of the MHP which was reached, in part, with Zoning Board of Adjustment approval. Changes to the MHP being sought are as follows:**

- **Conversion of seven former residential lots along the Suncook River to non-residential space.**
- **Conversion of non-residential green space on the southwest corner of the MHP to thirteen new residential lots.**
- **Relocation of the existing club house to create one additional residential lot on the club house site.**

**The net effect of these changes will be to increase the total number of residential sites in the MHP by seven. Kings Towne MHP is located on the Suncook Valley Highway (Rte 28) and is identified on Epsom Tax Map U16 as Lot 17.**

Glenn reported that he & Rick met with Tony about the revised agreement with Kingstown Park. He explained the slightly modified plan to propose to Kingstown.

1. Create 7 lots on Queens Lane to replace those lost along the Suncook River.
2. The area along the Suncook River will remain undeveloped with no septic tanks, buildings or vehicles.
3. Add 3 additional lots along Queens Lane.
4. Reserve one additional lot on Queens Lane for potential replacement of Lot #13 which remains along the Suncook River.
5. Maintain the clubhouse on the current lot.
6. Maintain the berm on the south side (Griggs property) or replace with a similar buffer.
7. Extend Queens Lane to the King Street to provide another access to the back.

Tony is meeting with KingsTowne attorneys to discuss this agreement.

Alan made a motion to continue to April 15, 2009. Mark seconded the motion. All in favor.

**9:15 PM Mark made a motion to adjourn. Alan seconded the motion. All in favor.**