

ZBA  
Town of Epsom  
**Zoning Board of Adjustment**  
**10/02/2019**

**In Attendance:** Glenn Horner, Chairman; George Carlson, Vice Chairman; Alan Quimby, Member; Mike Hoisington, Planning Board Rep; Andrew Ramsdell, Member; Gary Kitson, Alternate; Leann Fuller, Recording Secretary

**Not In Attendance:** Mike Bussiere, Alternate

**Also in Attendance:** David and Kim Cadorette; Keith and Deb Burgess; Laura Swanson; Paul Davis; Rick Davis; Virginia Drew, Tom Brown

**7:00 PM** Glenn called the meeting to order and introduced the members of the board.

The minutes of 09/18/19 were reviewed.

***Gary Kitson made a motion to approve the 09/18/19 meeting minutes as amended.  
Alan Quimby seconded the motion. Motion passed.  
Andrew Ramsdell and Mike Hoisington abstained.***

Glenn reviewed the case and meeting procedures.

**Case 2019-07 (S&R Properties LLC - SE)** - Richard Davis, on behalf of S&R Properties LLC, has applied for a Special Exception to Article II [Zones and Districts], Section C [Table of Uses], Number 29, [Wholesale, trade, and distribution] to permit the construction of a bulk propane storage (60,000 gallons) facility along with other fuel tanks that will also provide a new location for the existing business in town. The property is located on the Suncook Valley Hwy (Rte. 28N) within the Residential/Commercial Zoning District and is identified on Epsom Tax Map U-8 as Lot 89.

Glenn advised that this public hearing was posted at the Town Office & the Post Office. The continuance of this case was also announced at the last meeting.

Simon Leeming provided details of this case at the last meeting. Joseph Wichert is in attendance with a concept plan as requested by the board.

Glenn Horner and Mike Hoisington mentioned they do have fiduciary interest in the Davis Fuels business but can still be fair to this case.

Joseph Wichert spoke on behalf of Rick Davis. He presented the concept plan to the board. This plan will have an extra level of review by a specialized engineer for life safety. They make sure the tanks are properly spaced and have the necessary safety features. This is a 7.8 acre parcel. The proposal is an 80x100 building in the middle with a u-shaped gravel driveway. South of the building will be the propane and oil storage tanks. Any other tanks on site, such as the ones that go on customers properties, will be empty and stored in the back. Joseph clarified that the proposed tank storage facility will be a trenched area in concrete in case of any spill; it will be contained in the concrete and will not go into the ground. Based on a similar size facility in Concord, this area would be 65'x65'. Before the state permits can be applied for, this project requires the Zoning Board Special Exception be granted.

Mike Hoisington asked if the tanks will be protected from vehicle damage and Joseph Wichert stated they will be but at this point, he is not clear on the specifics.

Alan Quimby made a comment that the note on the plan has the incorrect lot number. Joseph Wichert will address that.

***Glenn opened the public hearing for public comment at 7:17pm.***

Peter Burgess spoke on behalf of Mr. and Mrs. Walker, who are abutters to the property that Davis Fuels will be acquiring. They wanted to know about safety. Rick Davis spoke that they plan on having a gate on the driveways as well as the tanks being fenced in under lock and key. If someone opens that gate, an alarm will sound. There will also be security cameras on the property.

Glenn Horner reviewed the potential conditions.

***Mike Hoisington motioned to close the public hearing at 7:21pm, seconded by Alan Quimby. Motion passed.***

Gary Kitson will vote in place of Andrew Ramsdell as Andrew was absent at the last meeting.

The Special Exception checklist was reviewed:

- Question 1. All members answered yes.
- Question 2. All members answered yes.
- Question 3. All members answered yes.
- Question 4. All members answered yes.
- Question 5. All members answered yes.
- Question 6. All members answered yes.
- Question 7. All members answered yes.
- Question 8. All members answered yes.
- Question 9. All members answered yes.

***Gary Kitson made a motion to approve Case 2019-07 (S&R Properties LLC - SE) - Richard Davis, on behalf of S&R Properties LLC, has applied for a Special Exception to Article II [Zones and Districts], Section C [Table of Uses], Number 29, [Wholesale, trade, and distribution] to permit the construction of a bulk propane storage (60,000 gallons) facility along with other fuel tanks that will also provide a new location for the existing business in town. The property is located on the Suncook Valley Hwy (Rte. 28N) within the Residential/Commercial Zoning District and is identified on Epsom Tax Map U-8 as Lot 89, seconded by George Carlson. Motion passed.***

The Special Exception was approved with the following conditions:

1. Fuels stored and distributed shall be limited to propane, fuel oil, kerosene, regular diesel and off road diesel. Fuels shall be handled and stored in accordance with all State and Federal regulations.
2. Fuel storage capacity shall be limited to:
  - a. Propane – 60, 000 gallons
  - b. Fuel oil – 50,000 gallons

- c. Kerosene - 20,000 gallons
  - d. Regular diesel - 20,000 gallons
  - e. Off road diesel - 20,000 gallons
3. Liquid fuel storage tanks shall have secondary containments to collect any spillage.
  4. The property shall be used for storage of fuels only. No retail sales are allowed.
  5. The proposed new building shall be limited in size to 8000 ft<sup>2</sup> and be used for truck storage and maintenance of fuel facilities and facility vehicles. This building may also house a small office for the fuel business. A new State approved septic system for this building shall be installed and approved by the New Hampshire Dept. of Environmental Services.
  6. All lighting installed for the facility shall be downward facing.
  7. The existing fuel oil business currently located on New Orchard Road in the Residential/Agricultural zone shall be transferred to the new location approved by this special exception. Further use of the New Orchard Road location for fuel storage will terminate once the new location is fully established.
  8. The driveway entrances and fuel storage areas shall be fenced with a lockable gate.
  9. Substantial construction of the fuel storage facility shall be completed within 4 years of the date the project was approved by the Zoning Board.
  10. The applicant shall proceed to the Planning Board for Non-residential Site Plan Review.

**Case 2019-10 (Cadorette - Variance)** - David Cadorette, on behalf of the Cadorette Family Trust 2015, has applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Subsection 5 [Continued Use], paragraph (b) [Enlargement] to expand the living space of a dwelling on a pre-existing, non-conforming lot by greater than 25 percent of its original size. The property is located on Sleepy Hollow Lane (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-01 as Lot 97.

Glenn advised that this public hearing was published in the Concord Monitor, posted at the Town Office & the Post Office and all abutters were notified by Certified Mail. All certified receipts were received back except Richard Kuhn and Keith and Debra Burgess. Richard Kuhn passed away and Burgess' are the current owners. They did sign for the certified mailing but the Town has not received it back yet.

David Cadorette presented the case. They are seeking a Variance for a master bedroom as a second floor. Currently, the master is on the first floor and serves as a bedroom/office area. The house has a 5' crawl space for the basement with no access inside. They would like to change the current master bedroom into a laundry facility and storage as well as add some stairs for the second floor and to get into the basement. Prior to the submitting the Variance application, David did speak with Jay Hickey, Zoning Compliance Officer. David also had a structural engineer come out to make sure the

foundation can support a second story on the home. The footprint would not change; the home is only going straight up. David contact DES and they stated that no permit would be required through them as they are staying in the same footprint. Currently, the walls are 2x4's but the second floor will be constructed with 2x6's. The second floor will be a clear span to support it and the span will be supported by the exterior frame. The house is classified as year round residence. The house size will be increased by 54% by adding 640 square feet. They will not be blocking any one's view.

***Glenn opened the public hearing for public comment at 7:41pm.***

Tom Brown, 45 Sleepy Hollow Lane, has no problem with David and Kim going up a story on their house. They will not be blocking anything and it will conform to what a lot of the houses already have on Sleepy Holly Lane.

Keith Burgess echoed Tom Brown's comments. The Cadorette's are great neighbors.

Jay Hickey, Zoning Compliance Officer, stated that there was a previous Variance that did allow for this property to be a year round residence but limited it to 2 bedrooms.

David Cadorette added that the Road Association is funded to about \$11,000. The road will be graded before the winter by Fisher Excavation. Everyone on the road does their job to maintain it.

***Mike H. motioned to close the public hearing at 7:46pm, seconded by Alan. Motion passed.***

The Variance Checklist was reviewed:

Question 1: All answered yes.

Question 2: All answered yes.

Question 3: All answered yes.

Question 4: All answered yes.

Question 5: All answered yes.

Question 6: All answered yes (F.1) no (F.2).

***George Carlson made a motion to approve Case 2019-10 (Cadorette - Variance) - David Cadorette, on behalf of the Cadorette Family Trust 2015, has applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Subsection 5 [Continued Use], paragraph (b) [Enlargement] to expand the living space of a dwelling on a pre-existing, non-conforming lot by greater than 25 percent of its original size. The property is located on Sleepy Hollow Lane (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-01 as Lot 97, seconded by Andrew Ramsdell. Motion passed.***

The Variance was approved with the following conditions:

1. The size of the enlargement shall be limited to an increase of 640 ft<sup>2</sup> of living space which is 55% greater than the 1180 ft<sup>2</sup> of living space contained in the existing residential dwelling.
2. All modifications to the dwelling shall be made within the footprint of the existing structure.

3. The dwelling shall remain a 2 bedroom residence.

**Case 2019-11 (Burgess – Variance)** - Keith and Debra Burgess have applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Paragraph 4 [Change and Expansion of Use] and Paragraph 7 [Pre-Existing Non-Conforming Seasonal Dwellings], to permit the use of a lake front seasonal dwelling as a year round residence on a non-conforming lot containing .21 acres with no public road frontage. The property is located on Sleepy Hollow Lane (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-01 as Lot 95.

Glenn advised that this public hearing was published in the Concord Monitor, posted at the Town Office & the Post Office and all abutters were notified by Certified Mail. All certified receipts were received back except for Jennifer and Scott Dupont.

Keith Burgess presented his case. The Burgess' are looking to turn their home into a year round residence in Epsom. The septic was installed in 1985. They had it inspected when they bought the property 5 years ago and it was cleaned out 2 years ago. Glenn Horner would like documentation that it was inspected 5 years ago. The Burgess' property is the smallest one that has come before the board to change the classification from seasonal to year round. Glenn would like to see something in writing from DES if they would approve this septic for year round use and that the location of their well is acceptable. Keith Burgess recalled speaking with the septic installer when they bought the property and he stated that he would assist them if they needed to make any changes to be a year round residence. Glenn clarified that this would have to remain a 2 bedroom house. Keith understood.

***Glenn opened the public hearing for public comment at 8:01pm.***

David Cadorette, 51 Sleepy Hollow Lane, would be happy to have the Burgess's as year round neighbors.

Tom Brown, 45 Sleepy Hollow Lane, stated they definitely deserve to live their year round, they are excellent people.

Andrew Ramsdell asked what the overall condition of the house is. Keith Burgess stated it is a poured foundation, walk out ranch. It has a wood stove and mini split for heat but if it is converted to year round, they will most likely install a full heating system. The footprint would remain the same. There are no other changes to the property.

Jay Hickey did find an old septic system plan. It does not have an approval on it by the State.

***Mike Hoisington made a motion to continue case 2019-10 (Cadorette - Variance) - David Cadorette, on behalf of the Cadorette Family Trust 2015, has applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Subsection 5 [Continued Use], paragraph (b) [Enlargement] to expand the living space of a dwelling on a pre-existing, non-conforming lot by greater than 25 percent of its original size. The property is located on Sleepy Hollow Lane (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-01 as Lot 97, to October 16<sup>th</sup>, 2019, seconded by Andrew Ramsdell. Motion passed.***

**Other business:**

Glenn Horner stated that the rules were finalized and updated at the last meeting. The Town won the case with Mr. Jabour. This case went to Superior Court because he was denied a Variance to change his dwelling from seasonal to year round. He appealed it and lost.

Mike Hoisington had some concerns over an e-mail sent to the Planning Board chairman by the Zoning Board chairman. This e-mail was sent regarding coming up with a procedure for Hawkers and Peddlers. Mike Hoisington took it personally that Glenn had questioned the integrity of the Zoning Board members. There was a line in the e-mail regarding political persuasion and that a political hawker could set up shop wherever without land use review. Mike Hoisington made it clear that whenever a decision is made, he does not base it on politics but on merits of the case and the Ordinance's. Glenn Horner stated this was in regards to a Trump tent set up at the old Care Pharmacy parking lot. Mike Hoisington said they are working on coming up with a procedure. The way the e-mail came across felt like a personal attack. Glenn Horner stated that he sent that e-mail to the Planning Board chair and was concerned why it was presented to the board. Mike Hoisington clarified that an e-mail from one chair to another about Town business is subject to RSA 91:A and makes it a public document. Virginia Drew stated that as a Selectman, she did receive a lot of e-mails regarding this. Dawn did what she could do by taking the persons license and information.

***Andrew Ramsdell made a motion to adjourn at 8:29pm, seconded by Mike Hoisington. Motion passed.***