

EPSOM BOARD OF ADJUSTMENT

1598 Dover Road, Epsom

RECORD OF DECISION

Zoning Appeal: Case 2023-08-1 (Gagne – Var. & SE)

Applicant & Owner: Christopher Gagne

Tax Map: U08 **Lot:** 80-4

Zoning District: Residential/ Agricultural Zone

Notice is hereby given that the appeal submitted by Christopher Gagne for a Special Exception, as required by Article III, Section G, Paragraph 1.e.vii, and Variance to Article II, Sec. A, Paragraph 2 to construct an overhead accessory dwelling unit (ADU) in an attached 3 car garage within the 50' setback from a wetland was **approved** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, August 16, 2023. The property is located on Goboro Road within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U08 as Lot 80-4.

Findings of fact:

1. The owner of the property received a building permit by the ZCO to construct an ADU and garage in its current location without the necessary zoning appeals. Much of this construction has been completed. This presents a significant hardship and warrants increased emphasis with regard to the other variance criteria.

2. Removal of the existing garage would be a substantial injustice to the owner with little or no gain realized by the town.

3. The subject wetland, determined to be a seasonal runoff, has been reviewed by the New Hampshire Department of Environmental Services (NH DES) and construction of the garage/ADU is considered a non-detrimental impact. As such the “special condition” of this property with respect to the wetland of concern provides sufficient uniqueness to satisfy the hardship criteria.

4. The construction is not contrary to the public interest and is consistent with the spirit of the ordinance, which attempts to preserve the sanctity of wetlands. Specifically, it does not impact water quality as the existing leach field is located well away from the wetlands buffer. Building intrusion into the wetlands buffer also has little wildlife or other environmental consequence, as the wetland itself is between and within close proximity of two residential homes.

5. Both special exception and variance checklists have been completed without objection and support approval of the appeal.

The variance and special exception were approved with the following conditions:

1. There shall be no expansion (e.g. porches, decks or other structures) on the portion of the garage/ADU building within the wetland buffer as shown on NH Land Consultants Plot Plan dated 8/11/23 and submitted in evidence.

Zoning Appeal Case 2023-08-1 (Gagne – Var. & SE)
RECORD OF DECISION (Cont.)

2. A copy of the NH DES approval of the design and installation of the existing septic system shall be verified by the Zoning Compliance Officer prior to reissuing the Building Permit for the garage/ADU.

3. A new septic system design intended to accommodate the additional loading of the ADU shall be approved through the NH DES and the approval verified by the Zoning Compliance Officer prior to issuing an occupancy permit for the ADU.

4. Following construction of the ADU, the existing septic system may continue to service the residential dwelling and the ADU. Should the existing system fail, or otherwise need to be repaired, it shall be replaced by the newly designed and approved septic system.

5. All ADU requirements contained in the Epsom Zoning Ordinances, including owner occupancy, shall be observed and adhered to by the property owner.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: August 17, 2023

Note: Any person affected has the right to appeal this decision and/or conditions of the approval. If you wish to appeal the decision, or any conditions contained herein, you must act within a thirty (30) day period beginning with the next working day after the Zoning Board of Adjustment meeting when the decision was made. The first step in the appeal process is to apply to the board of adjustment for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal.

cc: Christopher Gagne and Keri Adams-Gagne, 158 Goboro Road, Epsom, NH 03234
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2023-08-1 (Var. & SE)