

**EPSOM BOARD OF ADJUSTMENT
1598 DOVER ROAD
EPSOM, NEW HAMPSHIRE 03234**

RECORD OF DECISION

Zoning Appeal: Case 2023-12 (Norton) AA
Applicant & Owner: John & Maria Norton
Tax Map: U-19 **Lot:** 21
Zoning District: Residential/Agricultural

Notice is hereby given that the **Administrative Appeal** submitted by John and Maria Norton seeking to establish pre-existing use of their property for short term rentals was **affirmed** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, October 4, 2023. The property is located on Lake View Road within the Residential/Agricultural Zone and is identified by Epsom Tax Map U-19 as Lot 21.

Findings of fact:

1. The applicant contracted with Vbro and Airbnb, recognized short term rental assistance companies, to collect rent as well as pay the associated NH State Meal and Rooms tax.
2. A phone conversation between the Zoning Board Chairman and personnel at the State of New Hampshire, Department of Revenue Administration on October 4, 2023 confirmed that Vbro is a legitimate service which a property owner can use to ensure short term rental taxes are paid. Airbnb is considered an identical service for these purposes.
3. A spreadsheet verifying that Vbro and Airbnb collected and paid the taxes was included as evidence.
4. Such method of paying the taxes using Vbro and Airbnb satisfies the requirements contained in Article III.U.4 for paying the NH State Room and Meals Tax to the State of New Hampshire, Department of Revenue Administration.
5. Based on a review of the dates contained in the Vbro and Airbnb spreadsheets, the property was rented in 2022 outside of the more restrictive Article III.B,7.c seasonal dwelling (lake house) dates for seasonal summer use presumed to be May 15 through October 30. Article VII Conflicting Provisions require that this more restrictive time frame be observed than that provided in the Article U.5.a General Requirement which states "If the property is determined to be a seasonal dwelling, it may only be available for rental for no more than seven (7) months of the year."

Conclusion:

Based on the evidence submitted by Vrbo and Airbnb documentation, the seasonal dwelling identified on Tax Map U19 as Lot 21 was used as a short term rental prior to

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the enactment of Epsom Zoning Ordinance, Article U, Short Term Rentals. As such, the property is “grandfathered” for continued pre-existing use for Short Term Rentals per Article III.U.4. The duration of the short term rental use shall be from May 15 through October 30 in accordance with the seasonal dwelling (lake house) dates for a seasonal summer use contained in Article III.B.7.c.

This decision overrides and negates the prior Case 2023-05 (Norton) Variance and Special exception decision made on June 21, 2023 which denied the use of this property as a short term rental including the need for the applicant to pursue a rehearing before the Board in that case.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: October 5, 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, before any appeal can be taken to Superior Court, 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: John & Maria Norton, 69 Champlin Ridge Road, Rochester, NH 03867
Shaheen & Gordon – Kirsten Allen, Esq., PO Box 977, Dover, NH 03821
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2023-12 (Norton) AA