

EPSOM BOARD OF ADJUSTMENT
1598 Dover Road, Epsom, NH
RECORD OF DECISION

Zoning Appeal: Case 2024-03 (Bilodeau – Var.)

Applicant: James Bilodeau

Owner: Ralph & Alida Cass Estate

Tax Map: R3 **Lot:** 18-7

Zoning District: Residential/ Agricultural Zone

Notice is hereby given that the appeal submitted by James Bilodeau for a **Variance** to 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 containing .5 acre (2 acres minimum required) and no public road frontage (200 feet required) was **denied** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, February 21, 2024. The property is located on Old Mountain Road (Class VI) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map R-3 as Lot 18-7.

Findings of Fact:

1. The property's frontage is on a Class VI public way and is not maintained by the Town. The Zoning Ordinance defines a public road, for the purposes of meeting zoning frontage requirements, as a Class V public road or better and maintained at the expense of the Town or State on a year round basis.
2. Other similar variance applications requesting residences without public road frontage have been denied by this Board more recently in Case 2021-05 (Sunset Drive), Case 2017-12 (Old Mtn Rd.) and Case 2024-01 (Chestnut Pond Rd (Private portion)).
3. Current road conditions, based on a February 17, 2024 site visit, finds it is a narrow unimproved and untreated woods road with marginal surface.
4. At ½ acre, the property area is only 25% of the required 2 acre minimum for a single family residence.
5. Based on Tax map distances to the lot and Google Earth depictions of that lot, a significant portion of the lot is covered by an open swamp.
6. Accounting for wetland setbacks for buildings, the building area for this lot is further reduced.
7. There is one single family residence beyond the subject property on Old Mountain Road which was built in 1977 a few years after zoning was adopted by the town.
8. NH RSA 674:41, which governs erection of buildings on streets and would supersede a conflicting local ordinance, is not applicable in this case.

Zoning Appeal Case 2024-03 (Bilodeau – Var.)
RECORD OF DECISION (Cont.)

The variance is denied for the following reasons:

1. The variance unduly and in a marked degree conflicts with the ordinance that requires 200' on a public road. Not only does this property have no public road frontage, it is almost 1500' from a public road. The access/egress to the property is a narrow, near single lane, ungraded woods road. Such a marked deviation from the expectations of the ordinance would burden Town emergency services as well as occupants with increased risk to safety and welfare and would be a significant liability to the town.
2. The variance is inconsistent with the spirit of the ordinance by creating premature and scattered development with inadequate access and would have a cumulative impact of encouraging similar development on the many other properties in town without public road frontage.
3. The lot, being 25% of the minimum lot size for a single family residence, appears to be covered to a significant extent by a swamp and, accounting for the wetland setback requirements for buildings, may not be capable of supporting home construction. Approval, therefore would be contrary to the public interest and inconsistent with the spirit of the ordinance that intends to allow for the creation of suitable buildable lots for new residences.
4. No special conditions of the property are found which would make the denial an unnecessary hardship to the owner. On the contrary, land accessed by unimproved non-public roads is quite common in the residential/agricultural district. For this reason, the expectation of the ordinance is that safe and adequately maintained access is provided prior to allowing residential habitation and is not considered an unnecessary hardship.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: February 22, 2024

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: Ralph & Alida Cass, 7190 Pleasant Street, Loudon, NH 03301
James Bilodeau, 156 Mountain View Road, Deerfield, NH 03037
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
Case 2024-03 (Bilodeau – Var.)