

EPSOM BOARD OF ADJUSTMENT

1598 Dover Road, Epsom, NH 03234

RECORD OF DECISION

Zoning Appeal: Case 2024-04 (Knight – Var.)

Applicant & Owner: Knight Brothers Development, LLC

Tax Map: U7 **Lot:** 61

Zoning District: Residential/ Agricultural Zone

Notice is hereby given that the appeal submitted by Chris Knight, principal officer of Knight Brothers Development, LLC, for a **Variance** to Article III, Section G [Residential Single and Multi-Family Residence Requirements], paragraph 1 [Single Family Requirements] b. [Building Lots] to permit the subdivision of an existing 2.7 acre lot into 2 lots, each containing less than 2 acres was **approved** by majority vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, March 6, 2024. The property is located on Goboro Road within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-7 as Lot 61.

Findings of Fact:

1. The property is on a slope, which is frequently the site of runoff.
2. The existing lot contains a structure which is in violation of the frontage setback, uninhabited, derelict, and is a current public safety hazard.
3. The existing lot was previously two lots, with one being dimensionally pre-existing nonconforming.
4. The most recent recorded plan shows two lots.
5. There is no evidence of when, how, or if a legal merger took place. A merger would require a new recorded plan, of which there is no record.
6. Permitting the variance will bring the nonconforming lot toward conformity by allowing both former lots to be in compliance in all matters besides the two-acre lot requirement, with plans for subdivision and septic systems approved by the Department of Environmental Services for both new lots.
7. The proposed change will be consistent with the character of the neighborhood, which contains other lots which do not conform to current dimensional requirements.
8. Three special conditions of the property were found as follows:
 - a. The prior existence of two lots, with no evidence of a legal merger.
 - b. The existence of a structure which is currently a threat to public safety.
 - c. The existence of a structure which does not meet current setback requirements.

The variance was approved for the following reasons:

Case 2024-04 (Knight – Var.)
RECORD OF DECISION (Cont.)

1. The variance will not be contrary to public interest because:
 - a. It is consistent with the character and development in the neighborhood.
 - b. Improves public health and safety by removing the derelict house and replacing it with two new homes.
2. Is consistent with the ordinance because:
 - a. It removes a nonconformity on the lot by eliminating a non-conforming building setback.
 - b. Allows for septic approved by DES, which the pre-existing small lot could not safely support.
3. Substantial justice is demonstrated by:
 - a. Evidence presented that there were once two lots, and no recorded plan negates that.
 - b. The proposed use is consistent with the current use of residential homes in the neighborhood
4. Evidence was presented that approval will allow for construction of two new homes which will increase property values in the neighborhood.
5. Literal enforcement of the provisions create an unnecessary hardship due to the following special conditions of the property:
 - a. Evidence was presented showing two pre-existing lots had been merged to create this lot. One of those lots was non-conforming.
 - b. The existing structure is not conforming with current setback requirements and will be removed.
 - c. The current structure does not have adequate land to support a septic system on the previously recorded lot, creating a public safety concern.
6. The proposed use is reasonable because:
 - a. It is reasonable to have housing in a residential/agricultural zone
 - b. It will not injure the public or private rights of others.
 - c. It aligns with the nature and character of the neighborhood, much of which contains lots that do not conform to current zoning dimensional requirements.

The variance was approved with the following conditions:

1. All slopes will be decreased to the degree practicable.
2. The applicant will contact the Planning Board to determine additional actions necessary for subdivision of the lot.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: March 7, 2024

Case 2024-04 (Knight – Var.)
RECORD OF DECISION (Cont.)

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: Knight Brothers Development Co., 7 Merrimack Street, Concord, NH 03301
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2024-04 (Knight – Var.)