

**EPSOM BOARD OF ADJUSTMENT
PO BOX 10, EPSOM, NEW HAMPSHIRE 03234**

RECORD OF DECISION

Zoning Appeal: Case 2022-05 (O'Hara – Var. & SE)

Applicant & Owner: Daniel O'Hara

Tax Map: U3, **Lot:** 22

Zoning District: Residential/Commercial Zone

Notice is hereby given that the appeal submitted by Daniel O'Hara for a **Variance** to Article III, Section G, Paragraphs 1.e.i & 1.e.v to allow for the removal of an existing garage, detached from the single-family residential unit, and replacing it with a detached accessory dwelling unit (ADU) was **denied** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, August 17, 2022. The property is located on Old Turnpike Road within the Residential/Commercial Zoning District and is identified on Epsom Tax Map U3 as Lot 22.

The variance was denied for the following reasons:

1. The request is contrary to the public interest and inconsistent with the spirit of the ordinance with regard to ADUs. The creation of an ADU is intended to allow for dual residency on all properties with a single family residence provided the owner remains on the property. This relatively recent relaxation in zoning requirements came with the understanding that both the single family residents and the ADU residents would be housed within the same structure. Owner occupancy within a single structure is intended to ensure the property is monitored closely and maintained appropriately. Creating a separate detached ADU would defeat the purpose of this close quarters living arrangement.

2. Granting the variance would not do substantial justice. To this point all prior ADU requests that have come before this Board have been for a single structure. Allowing for ADU residences in detached structures would be an injustice to those previous ADU applicants where detached living arrangements might have been preferable. In addition, it would set a variance precedent for future ADU cases encouraging noncompliance with the zoning ordinances.

3. No special conditions of the property have been found which make the ordinance an unnecessary hardship. The existing single family residence contains an attached garage which can be converted into an ADU making it compliant with the existing ordinances.

Note: Following denial of the variance in this case, the associated Special Exception appeal was withdrawn by the applicant.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: August 18, 2022

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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: Daniel O'Hara, 108 Old Turnpike Road, Epsom, NH 03234
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2022-05 (O'Hara – Var. & SE)