

**TOWN OF EPSOM
ZONING BOARD OF ADJUSTMENT MEETING
Epsom Central School, 282 Black Hall Road, Epsom, New Hampshire
November 1, 2023, 7:00 PM**

PRESENT

Glenn Horner, Chair
Gary Kitson, Member
Alan Quimby, Member
Lisa Thorne, Member
Jason Johnson, Alternate Member
Andrew Ramsdell, Alternate Member
Prescott Towle, Alternate Member

ALSO PRESENT

Jennifer Riel, Recording Secretary
Justin Guth, Zoning Compliance Officer
Virginia Drew, Board of Selectmen Representative
Meadow Wysocki
Addison Clark, applicant
Catherine Blades
Jeffrey Beane
John Caplis
Rita Cloutier
Gayle Rogers
Gerry Paquette
Don Paquette
Carrie DeGeorge
David Delcount
Ron Powers

CALL TO ORDER

Chair Horner called the meeting to order at 7:00 PM.

Introductions were made of the Board members present.

APPROVAL OF MINUTES

Meeting of October 18, 2023 – Edits were made.

MOTION: To approve the minutes as amended. Motion by Mr. Towle. Second by Mr. Kitson. Motion passed, 7-0-0.

Chair Horner asked Mr. Ramsdell to sit on the Board for this case.

Case 2023-14 (Clark – Var.) - Addison Clark has applied for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Paragraph B.4 [Change and Expansion of Use] and Paragraph 7 [Pre-Existing NonConforming Seasonal Dwellings], Subparagraphs a [Purpose and Intent], c [Scope of Use] and d [Permitted and Prohibited Use] to permit the use of a seasonal dwelling as a year round residence on a non-conforming lot with no public road frontage. The applicant seeks to obtain the variance pursuant to NH RSA 674:33 V based on physical disability. The property is located on Chestnut Pond Road (private) within the Residential/Agricultural Zoning District and is identified on Epsom Tax Map U-19 as Lot 52. Public testimony will be considered in determining if sufficient evidence has been submitted to justify granting this zoning appeal.

Chair Horner read the public notice into the record. It was confirmed the public notice was published in *The Concord Monitor*, posted at the Town Offices and the Post Office; certified letters were sent to abutters. Receipts were not received from Addison Clark, Rita Cloutier, Catherine Blades, Jeffrey Beane, and John Caplis.

Chair Horner opened the public hearing at 7:28 PM.

Addison Clark, applicant, stated he wants to turn his home in to a full-time residence; he stated the house has insulation in every surface with three forms of heat including a fireplace and propane heating system. He stated he can see the runoff area from the pond from his kitchen area so would be the first to know of any overflow or blockage. Mr. Clark stated he has been part of the road maintenance group since before he owned the property. He presented maps and septic plans for review by the Board, as well as septic inspection report of September 2023. Mr. Clark stated it was determined at that time the septic system, installed in 2004, would be adequate for a house of five bedrooms while his home is only two bedrooms; it is in good working order. Mr. Clark stated there is 30.7 feet from the end of the public road to his house; he also presented historical data regarding emergency vehicles being called to the area, accessing the farthest point on the private road. Mr. Clark stated the pricing of housing across the country have gone up; he presented data supporting the lack of affordable housing within New Hampshire. Mr. Clark stated he bought the seasonal property in September 2023 with the hopes of being granted permission to live in his home year-round which is necessitated by the current housing crisis. He stated he is a disabled veteran, serving in the Army for the last 11 years; he provided proof of disability letter from the Department of Veterans Affairs for review by the Board. Mr. Clark stated he just wants to come home to New Hampshire; he is seeking employment in NH. He stated he does not intend to change the character of the neighborhood. Mr. Clark confirmed he has an artesian well on his property. He stated the previous owners did not have problems with the water and it meets testing standards.

Chair Horner stated Mr. Clark admitted he purchased a seasonal property; he stated if research had been done, it would have been found that numerous seasonal properties have been denied variances, particularly on Northwood Lake as many of the lots are small, in sensitive lake areas. Chair Horner noted Mr. Clark's property is right at the end of the Town-owned road but it is also the smallest lot. He noted many of the past concerns about these types of cases have been access by emergency services.

Chair Horner stated this case is unique in that the variance is granted to Mr. Clark only and is not carried with the property. It was confirmed Mr. Clark's intention is to stay and live at the property. Mr. Clark stated he has no plans to sell the property and doesn't have a problem with the variance being granted to him and not carry with the property. It was confirmed there is adequate parking.

Chair Horner opened the hearing to input from abutters in favor of the application.

Gayle Rogers, abutter, stated she is in favor of the variance being granted; she believes it keeps the neighborhood safer with year-round residents.

A resident stated he is in favor of the variance and appreciates Mr. Clark coming before the Board to ask permission.

Rita Cloutier, abutter, stated she is in favor of the application and likes having full time residents in the area.

Gerry Paquette, abutter, stated she is in favor of allowing Mr. Clark to use this house for his personal, year-round home.

Catherine Blades, abutter, stated she is in support of the case.

Chair Horner opened the hearing to input from abutters in opposition of the application. None was indicated.

Carrie DeGeorge, mother of the applicant, stated she is a board member of the Workforce Housing Coalition of the Seacoast and with the housing crisis in the state, she hopes the Board will grant the variance request.

Justin Guth, Zoning Compliance Officer, stated when this house was put on the market, it was initially advertised as a year-round property; he investigated a complaint and after clear evidence was found, the listing was adjusted to reflect being only seasonal.

Mr. Ramsdell asked if the inspection report outlines the heating, insulation, septic details, etc. Mr. Clark confirmed a full home inspection was conducted and can submit the reports to support his statements.

Chair Horner closed the public hearing at 7:55 PM.

The Board went through the Variance Discussion worksheet.

Discussion - Variance to Article III, Section B

A: The variance will not be contrary to the public interest. YES

B. The variance is consistent with the spirit of the ordinance. YES

C. By granting the variance, substantial justice is done. YES

D. The proposed use will not diminish the value of surrounding properties. YES

E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For purposes of this criteria, "unnecessary hardship" means that, either: YES

Either: F.(1) Owing to special conditions of the property that distinguish it from other properties in the area: • No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and • The proposed use is a reasonable one. YES

Or: F.(2) Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. YES

Findings of Fact

1. At .17 acres, the lot is the smallest in the Chestnut Pond development and is less than 10% of the current zoning ordinance minimum of 2 acres for a building lot.
2. The lot has 100' of private road frontage, 0' of public road frontage.
3. The lot is at the very end of the town road, within 30 ft. of the lot, providing more assurance of accessibility than other seasonal dwellings on the private roads.
4. The property has an approved and functioning septic system and well.
5. Approval is not contrary to the Public Interest and consistent with the spirit of the ordinance by virtue of the fact that it is located in close proximity of the town road providing assured access year-round.
6. No evidence has been found that property values will be diminished due to the temporary establishment of year-round residency on this lot.
7. Approval would provide substantial justice to the applicant who would be able to utilize his only home for year-round residency without any noticeable impact to the town.
8. The applicant is a qualified disabled individual (veteran) and is therefore eligible for a disability variance.
9. The hardship criteria is waived due to this being a disability variance.

The variance was approved with the following condition:

MOTION: To grant the request submitted by Addison Clark for a variance to Article III, Section B [Pre-Existing, Non-Conforming Uses], Paragraph B.4 [Change and Expansion of Use] and Paragraph 7 [Pre-Existing Non-Conforming Seasonal Dwellings], Subparagraphs a [Purpose and Intent], c [Scope of Use] and d [Permitted and Prohibited Use] to permit

the use of a seasonal dwelling as a year round residence on a non-conforming lot with no public road frontage, with the following condition:

Approval is for year-round use by Addison Clark provided he has title to the property and remains the primary resident at the property. When Addison Clark no longer holds title or no longer resides at the property, Tax Map U-19 as Lot 52 shall revert to seasonal use only.

Motion by Ms. Thorne. Second by Mr. Quimby. Motion passed 5-0-0.

Other

The Board discussed replacement for the Vice Chair position. Mr. Johnson stated he is willing to come on the Board as a full member.

ADJOURN: Motion by Mr. Quimby. Second by Mr. Johnson. Motion passed, 5-0-0.

The meeting was adjourned at 8:26 PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary