

Town of East Kingston, New Hampshire  
Zoning Board of Adjustment Meeting Minutes

January 22, 2015  
7:00 pm

**AGENDA**

**Case #15-01.** Chris Breen, 32 Powwow River Road, EK, NH (MBL 10-03-06). The applicant is seeking a special exception under Article VIII - USES PERMITTED Paragraph F. for an accessory dwelling unit.

**Members Attending:** Chairman John Daly, Dave Ciardelli, Paul Falman, and Tim Allen. Vice Chairman Catherine Belcher was excused.

**Also present:** Mr. Breen

Mr. Daly opened the meeting of the East Kingston Zoning Board of Adjustment (ZBA) at 41 Depot Road (Pound School) on January 22, 2015 at 7:00 pm.

***Public Hearing 15-01***

Chris Breen, 32 Powwow River Road, EK, NH (MBL 10-03-06). The applicant is seeking a special exception under Article VIII - USES PERMITTED Paragraph F. for an accessory dwelling unit.

As one of the Zoning Board members was not in attendance for this public hearing, Mr. Daly offered the applicant the choice of continuing this hearing until such time the fifth member could attend, or proceeding with the four members present. Mr. Breen chose to proceed.

Mr. Breen noted he was the sole owner of the property; he had purchased it from Jeffrey and Colleen Beane. The decision paperwork will show only Mr. Breen's name.

Mr. Daly opened this public hearing and acknowledged that Mr. Breen was in attendance.

Mr. Daly explained that this was a somewhat different scenario before the Zoning Board as the usual application was for someone who was constructing an new accessory apartment, and Mr. Breen was asking for permission to utilize an already existing but unapproved accessory apartment. Mr. Daly explained Mr. Breen would need to satisfy certain requirements in the ordinance to receive approval.

Mr. Daly asked Mr. Breen to review his application for the Board and explain how he met the special exception conditions.

Mr. Breen explained he had bought the property, which included a house with accessory apartment, from Jeffrey Beane and his intent was to fix up the apartment, move into the house and have his father live in the accessory apartment,. He does not presently live in the house; he is in the process of fixing up the apartment and when that is complete, he will move into the house and have his father move in to the apartment. The present tenants of the house will move out and they are aware of the fact they will need to leave. Mr. Allen asked about their lease; Mr. Breen stated they are living there month-to-month. The apartment is vacant at this time.

Mr. Breen is also aware that the apartment, although existing and having been rented in the past, has not been approved as an accessory apartment and that is why he is here before the Board. To his knowledge, the property has been rented (both the house and the apartment) for approximately 10 years. Also, the owner of the property did not live in the house. Mr. Falman ascertained that situation might have occurred before the accessory apartment ordinance went into effect.

Paperwork Mr. Breen submitted with his application shows that the property meets conditions for an accessory apartment.

Mr. Daly reviewed the Special Exception Worksheet with the Board.

1. **Ownership** - *The ordinance states the owner of the property must reside in one of the units.*

Mr. Breen has purchased the house and the deed is in his name. Although Mr. Breen does not live in the house at the present time, if he receives approval from the Zoning Board for the apartment, the tenants will be leaving and he will be moving into the house. He will then have his father move into the apartment. Mr. Daly noted Mr. Breen residing in one of the two living spaces would be a condition of approval.

***This condition is satisfied.***

Mr. Daly informed Mr. Breen that the resident of the accessory dwelling unit would not need to be a family member.

2. **Living Area Configuration** *The ordinance states an accessory apartment cannot be larger than 500 sf.*

Mr. Allen asked about the size of the house and apartment. Mr. Breen noted the house has 2 bedrooms and 1 1/2 baths; the apartment has one bedroom and 1 bath. Paperwork submitted with the application shows there is a 3-bedroom system. Mr. Breen has shown the existing apartment is 458 sf and consists of 1 bedroom, a kitchen/living room area, and a bathroom.

***This condition is satisfied.***

3. **Construction** *The ordinance states an accessory dwelling unit must be attached to the primary dwelling unit and cannot have an entry way on the front side of the house. There also must be an interior passage through the main house for safe egress.*

Mr. Breen has shown the apartment meets these conditions; the apartment is attached to the house with an entry way into the main house and the entrance shown is on the side of the house.

***This condition is satisfied.***

4. **Parking** *The ordinance states there will be a minimum of 2 off street parking spaces each for the main house and accessory apartment.*

Mr. Breen has indicated parking for at least 5 vehicles on his sketch.

***This condition is satisfied.***

5. **Pre-existing Conditions** *A pre-existing accessory dwelling unit in existence before March 8, 2005 in a non-complying residence must comply within 6 months and the owner must obtain a Certificate of Occupancy (CO).*

Mr. Breen is aware this apartment has not been approved previously and that is why he is before the Board this evening. He is also aware the Fire Department and the Building Inspector will need to perform inspections before can he receive a certificate of occupancy for the apartment.

Mr. Ciardelli reiterated Mr. Breen would need to occupy one of the units in the house.

Mr. Daly asked if the Board members had any questions for Mr. Breen; there were none.

Chairman Daly noted there were no abutters present. Mr. Breen opined it was because both the house and apartment had been rented for such a long time and there had been no issues.

Chairman Daly asked for a motion.

**MOTION:** Mr. Ciardelli **MOVED** that the board grant the special exception under Article VIII – USES PERMITTED Paragraph F. for an accessory dwelling unit for Chris Breen, 32 Powwow River Road, EK, NH - Case 15-01 - (MBL 10-03-06) based on satisfying the conditions for granting the special exception outlined in the ordinance. The vote was four “ayes” and the motion carried.

Mr. Daly closed the public hearing. Mr. Breen thanked members of the Board.

The meeting was adjourned at 7:15 PM.

Respectfully submitted,

*Barbara White*

Barbara White  
Recording Secretary

John Daly  
Chairman