

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

July 23, 2020

The Town of East Kingston Zoning Board of Adjustment met remotely through a Zoom web conference, Thursday, June 23, 2020 at 7:00 PM. Due to COVID-19, and pursuant with NH Emergency Orders, no public meeting location was utilized.

Chairman Allen made a statement regarding video bombing:

If tonight's meeting is interrupted by outside sources, this meeting will be immediately terminated and the public hearing will be continued and rescheduled to another date and time to be announced and published. If anyone has a problem during the meeting connecting, Mr. Allen provided his phone number so he would be informed that someone could not connect with the meeting and either provide guidance to connecting or terminate the meeting as it a requirement the meeting be available to the public.

Mr. Allen explained the meeting procedure: He will open the public meeting and roll call of members will be called. He will then open the public hearing and ask the applicant will give a brief description of why they are before the board and go through the criteria. Only board members will ask questions of the applicants at this point. Once the board has finished with their questions, the floor will be opened for public comments. Please announce yourself by name and address and make any comments to the board and not the applicant. When public comments are completed, the public comment portion will be closed. Then the board will deliberate and may ask additional questions of the applicant. A motion and second will then be asked for to approve or deny application, and there will be a vote of the board members. People were asked to mute themselves during the presentation to eliminate background noise.

Members Attending: Chairman Tim Allen, Vice Chairman Ed Robbins, David Ciardelli, Paul Falman, Frank Collamore and Nate Maher.

Others Attending: Applicants Mr. James Clark and East Kingston resident Jan Smith.

Chairman Allen opened the meeting at 7:00 pm and Mrs. White called the roll.

Mr. Allen asked for a **MOTION** to approve the April 23rd minutes

Mr. Robbins **MOVED** to approve the April 23rd minutes as published; seconded by Mr. Allen.

Roll Call vote: Mr. Allen – aye; Mr. Robbins - aye; Mr. Falman – aye; Mr. Ciardelli – aye; Mr. Collamore – aye. Vote was unanimous.

Mr. Allen asked for a **MOTION** to approve the May 14th minutes

Mr. Ciardelli **MOVED** to approve the May 14th minutes as published; seconded by Mr. Robbins.

Roll Call vote: Mr. Allen – aye; Mr. Robbins - aye; Mr. Falman – aye; Mr. Ciardelli – aye; Mr. Collamore – aye. Vote was unanimous.

Mr. Allen opened the public hearing for Case #20-03.

Case #20-03. Barbara and James Clark, 114 Sanborn Road, East Kingston, NH (MBL 07-03-24). The applicants are seeking a Special Exception from Article VIII - Uses Permitted - Paragraph F. for an accessory dwelling unit (ADU).

Mr. Allen explained the difference between a special exception and a variance. A special exception seeks permission to do something the zoning ordinances permit under certain circumstances. A variance is permission to do something that is not permitted by the ordinances. If special exception criteria are met, the special exception must be approved.

The purpose of the accessory dwelling unit ordinance is to:

- Increase the supply of affordable housing without the need for more infrastructure or further land development.
- Provide flexible housing options for residents and their families.
- Integrate affordable housing in the community with minimal negative impact.
- Provide elderly citizens with the opportunity to retain their homes and age in place while maintaining a rural agricultural character of the neighborhoods and the town.

Mr. Allen asked Mr. Clark to present his application to the board and explain how he meets the criteria.

Mr. Clark explained his daughter and her husband were in the process of relocating from Connecticut to New Hampshire and need place to live while they were searching for a home to purchase in the area. After they purchase their home, Mrs. Clark's mother would move into the accessory dwelling unit.

For this application they have included their completed application, a copy of the property card, renderings from the builder of the proposed accessory dwelling unit, a plot plan showing the existing dwelling and proposed ADU location, well radii and the location of the septic leach field, an inspection from a septic service that the existing septic system is functioning, and a copy of the replacement septic system design submitted to the state which is awaiting approval.

The board complimented Mr. Clark on the completeness of the information provided for their review.

Mr. Clark noted the intent was to build a 3-car garage with an accessory dwelling unit above which would be attached to the main dwelling via a breezeway.

Mr. Clark's answers from the application.

1. **Zoning District** – his existing dwelling is in a residential/agricultural zone where accessory dwelling units are allowed.
2. **Ownership** – Mr. and Mrs. Clark presently own and live in the house and intend to remain living there.
3. **Living area configuration** – the proposed accessory dwelling unit area is 832 square feet.
4. **Construction** – there will be a common wall between the two living areas and one common entry door onto the common area. One door leads to the ADU and the other into the main dwelling. Mr. Clark is asking for an exception for this common door to be on the front side of the house for access to the ADU.
5. **Parking** - there is adequate off-street parking for 4 vehicles.
6. **Septic** – there has been an inspection of the existing septic system which shows it is fully functional at this time, and they are waiting for approval of their application for a replacement 5-bedroom system that has been sent to the state for approval.

Mr. Allen noted Mr. Clark meets the following required criteria for an accessory dwelling unit.

- The existing home is a dwelling located in a zoning district that allows single-family dwellings
- Mr. & Mrs. Clark own and live in the home
- The total living area proposed is less than the allowable 900 square feet, with two bedrooms and one bathroom.

- The accessory dwelling unit will be constructed attached to the principal dwelling to preserve the appearance of a single-family dwelling and clearly secondary to the principal dwelling unit. Attached means having a shared wall or connected by a covered and enclosed structure. There shall be a connecting door between the primary dwelling and the accessory dwelling unit. An outside entry way to the accessory dwelling unit shall not be placed on the front/street side.
- Off-street parking is provided.
- Septic requirements – the existing septic system has been inspected and a new septic plan to accommodate the accessory apartment is in process of approval by the state.

Board questions / Questions in **bold**; answers in *italics*

Mr. Ciardelli – feels all the criteria have been met with a caveat of the door location. Not having an entrance door on the front of the house is one of the criteria. That can be met if the connection between the ADU and the house it is considered a breezeway. If the door to the breezeway is considered part of the house, then that criteria is met with the door to the accessory apartment not being located on the front of the house. Another criterion states the interior passage through the common wall shall provide safe egress. The door that goes into the breezeway is the connection between the house and the ADU, which satisfies that criteria. Mr. Clark had expressed concern regarding the location of the door on the front of the house and whether it would meet the criteria. Mr. Ciardelli opines as the connection is considered a breezeway which is part of the main dwelling and not part of the ADU, it meets the criteria and no exception would be needed. Board members agreed.

Mr. Allen - the breezeway is part of the main house and the entrance door goes into the breezeway. The breezeway is considered part of the main house, therefore the entrance to the ADU is from the main dwelling and satisfies that criteria. Mr. Maher noted in satisfying that criteria, Mr. Clark would no longer need to ask for the exception for the door.

Mr. Falman – **is there access from the garage to the ADU?** Mr. Ciardelli noted that stairway was from the breezeway and not the ADU.

It appears the second exit from the ADU goes to the deck. Are there stairs to the ground from the deck? *Mr. Clark stated they had not planned on stairs from the deck but will certainly install them if the board requires it.* Discussion ensued and it was determined there needed to be stairs to the ground from the deck for the second egress criteria to be met.

Mr. Robbins – **asked if there were any issues with the ADU being totally within the well setback.** *Mr. Allen reported well setbacks apply to septic systems only; building structures are allowed within the setbacks.* Mr. Robbins suggested Mr. Clark might want to have his well tested, as there have been issues in the surrounding area.

Mr. Allen noted all town setbacks regarding structures, well and septic are met on the new plan. The new septic design has been sent to the state but is not fully approved as of this date. Any approval will need to be contingent upon the approved septic plan being received from the state. Mr. Clark asked when he received the approved septic plan from the state, who should he give it to? Mrs. White stated it should be the Building Inspector and the ZBA file would like to have a copy for the file. Mr. Clark also asked at what point the stairs from the deck would need to be completed. Mr. Allen noted he needed to add it to the plan and get a copy to Mrs. White, and the Building Inspector will inspect it when he is ready before issuing for your occupancy permit. When all the criteria are met, the decision will be recorded at the registry of deeds.

Mr. Falman – noted another contingency will be for the stairs from the deck to be included on a revised plan.

Mr. Allen opened the floor for public comment.

Mrs. Jan Smith – had no concerns in regard to the accessory apartment, but inquired what the pile of fill next to the barn was? Mr. Clark noted the pile would be moving to another location as it was good fill.

Mr. Allen closed to floor to public comment.

BOARD DELIBERATION

Zoning District – the property must be located in a zoning district that allows single family dwellings.

The Clark’s property at 114 Sanborn Road, East Kingston is located in a single-family zoning district where accessory dwellings are allowed.

Roll Call vote: Mr. Allen – agree; Mr. Robbins - agree; Mr. Falman – agree; Mr. Ciardelli – agree; Mr. Collamore – agree. Vote was unanimous. **PASS**

Ownership – the property owner must occupy one of the units as a primary resident and be the owner/ landlord of the accessory dwelling unit. The Clarks presently reside in the main dwelling unit and plan to continue to reside there.

Roll Call vote: Mr. Allen – met; Mr. Robbins - met; Mr. Falman – met; Mr. Ciardelli – met; Mr. Collamore – met. Vote was unanimous. **PASS**

Living area configuration – total living area for an accessory dwelling unit shall not exceed 900 sf, and must not consist of more than 2 bedrooms. Applicant is proposing a 2-bedroom ADU measuring 832 sf which meets the ordinance requirements

Roll Call vote: Mr. Allen – met; Mr. Robbins - met; Mr. Falman – met; Mr. Ciardelli – met; Mr. Collamore – met. Vote was unanimous. **PASS**

Construction – An accessory dwelling unit must be built within or attached to the principal dwelling to preserve the appearance of a single-family dwelling, and there can be no outside entry way to the accessory unit on the front/street side of the principal residence. The ADU will be attached to the primary dwelling unit by a breezeway. Stairs from the rear deck will be added to the plan.

Roll Call vote: Mr. Allen – met; Mr. Robbins - met; Mr. Falman – met; Mr. Ciardelli – met; Mr. Collamore – met. Vote was unanimous. **PASS**

Parking – Off-street parking shall be available for a minimum of 2 automobiles for the principal residence and 2 automobiles for the accessory dwelling unit. There is adequate parking for 4 vehicles.

Roll Call vote: Mr. Allen – met; Mr. Robbins - met; Mr. Falman – met; Mr. Ciardelli – met; Mr. Collamore – met. Vote was unanimous. **PASS**

Septic – Septic Facilities - An accessory dwelling unit shall comply with all applicable water and sanitary requirements. A replacement septic system plan has been prepared and sent to the state for approval, and the existing septic system has been inspected by a licensed system inspector and is operational. The Clarks are waiting for return of the replacement septic plan from the state.

Roll Call vote: Mr. Allen – met; Mr. Robbins - met; Mr. Falman – met; Mr. Ciardelli – met; Mr. Collamore – met. Vote was unanimous. **PASS**

Mr. Allen asked for a **MOTION** contingent on the receipt of the replacement septic system plan and the revised plan showing the stairs from the rear deck.

Mr. Robbins **MOVED** to **APPROVE** the application for Barbara and James Clark, 114 Sanborn Road, East Kingston, NH (MBL 07-03-24) for Special Exception from Article VIII - Uses Permitted - Paragraph F. for the construction of an accessory dwelling unit contingent upon receipt of the approved replacement septic plan from the State and the addition on the plan for stairs on the rear deck from the accessory dwelling unit; second by Mr. Ciardelli with a unanimous vote.

Roll Call vote: Mr. Allen – approve; Mr. Robbins - approve; Mr. Falman – approve; Mr. Ciardelli – approve; Mr. Collamore – approve. Vote was unanimous.

Motion is unanimous and the accessory dwelling unit is approved.

Mr. Clark thanked the board for their time.

Mr. Allen closed the public hearing for Case #20-03.

Mr. Robbins **MOVED** to adjourn the meeting/ second by Mr. Ciardelli with a unanimous vote.

The meeting was adjourned at 7:43 PM.

Respectfully submitted,

Minutes Approved _____

Barbara White

Tim Allen, Chairman