

Town of Northumberland Zoning Board of Appeals
Wednesday,
August 7, 2024 7:00 pm
Accepted by Zoning Board
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Zoning Board Members Present: Carl Harrison, Acting Chair, Maureen Leerkes, and Paul Becker

Zoning Board Members Absent: Anne Haag, Christopher McMahon, Sarah Mojzer, Vice Chairperson and Chairman Mark Boyce

Town Employees Present: Michael Terry, Code Enforcement and Tia Kilburn, Zoning Board Clerk

Quorum Established

Acting Chair Harrison called the meeting to order at 7:00 PM
All in attendance stood and recited the Pledge of Allegiance.

Acting Chair Harrison announced the first item on the agenda, **Application #: 0005-24, Jason Martindale, 5-foot area variance at 658 West River Rd, SBL#: 118.-1-9.11, agricultural zone.** He asked Mr. Martindale to explain his application to the Board.

Mr. Martindale stated he is trying to replace a mobile home on his property that has been there since 1969 with a new one, he wants to use the same footprint.

Mr. Terry, Code Enforcement officer, explained the use is grandfathered, Mr. Martindale wants to place it in the same spot so replacing the home requires it to be brought up to code so they need to satisfy the setback.

Mr. Becker said he tried to find it on google maps and could not see it, Mr. Martindale stated it should be, it is about 300' off the road, but now it has been torn down.

Acting Chair Harrison asked if Mr. Terry had any concerns, Mr. Terry stated no, only to meet the setback. Mr. Martindale stated he had a letter from the neighbor that she has no problem with it, he gave the letter to the Clerk for the file.

Acting Chair Harrison asked if there were any comments or concerns from the Board.

Ms. Leerkes stated as long as it is using the same footprint, and she asked if the new home was the same size, Mr. Martindale replied it is shorter but wider, because the new ones are wider than the old ones, but it will only be 5' off the property line in the same spot.

Acting Chair Harrison stated if there are no more questions they can schedule a public hearing and you could have a determination of the application then.

Ms. Leerkes made a motion to accept the application, send to Saratoga County Planning and schedule the public hearing,

Mr. Becker 2nd the motion,

All in attendance unanimously agreed.

Acting Chair Harrison announced the 2nd item on the agenda, **Application #: 0006-24, Noah Savett, Use Variance for 168 West River Rd in the agricultural district, SBL#: 144.-1-1.3.**

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Mr. Savett explained when he purchased the property the living space was already set up.

Mr. Terry stated to clarify this is not because it is an Airbnb, it is because there are two dwellings on the one parcel, he added because of the size of the lot in an agricultural zone he cannot subdivide it to make it conform, each dwelling needs 5 acres and the parcel is only 5.1 acres. He added there is nothing in zoning for Airbnb's so he is not going after that, he stated it is because it does not comply with Article 11, section H of the zoning; *Principal Buildings Per Lot, unless otherwise specified, there shall be only one (1) principal use and building per lot in all districts.*

Mr. Becker asked what the size of the lot was, Mr. Terry replied 5 acres and there is an extra use building on there.

Mr. Savett stated in the real estate ad, when he purchased it, it said it was living space because it was all set up, a kitchen with stove, sink, refrigerator and a bathroom with a toilet, sink and shower. He just renovated it, he realizes he did not get a permit but that is something he can get done and he will follow a few recommendations of the Code Enforcement Officer and he knows they won't be difficult to comply with.

Acting Chair Harrison reiterated they have a primary residence and then a barn with living space, Mr. Terry agreed and said there is a garage with living space above, so it has two separate living spaces and that does not comply with the zoning, that is why we are here, he added they are not going after Airbnb, it is just a zoning issue. Mr. Terry stated he did a safety inspection, and he told Mr. Savett there are some things that need to be done, but he did a visual inspection, and it is adequate living space.

Acting Chair Harrison asked if there were any questions from the Board?

Ms. Leerkes stated she was in a similar situation; they had one residence and were adding a second and they were forced to subdivide because they were told they were not allowed to have two residences on one property because of 911 addresses. Mr. Terry stated he can look into that, but Mr. Savett cannot subdivide because then they would not meet the minimum lot size, he added if it is a County issue they will get back to this Board.

Mr. Becker asked if they were looking for a variance of 5 acres? Mr. Terry said no, they are looking for a use variance because of the one principal use building per lot.

Acting Chair Harrison stated it must go to County Planning and if they have a concern, they will bring that up.

Ms. Leerkes stated she would like to table it and see back from the County to see how the County is going to respond. The Clerk stated they schedule the public hearing and send it to County Planning. Acting Chair Harrison agreed and stated they schedule a public hearing and send it to County Planning and then they will hear back from County Planning by the time they hold the public hearing.

Ms. Leerkes asked how big the property was, Mr. Savett stated 5 acres, he added the building this located in is further away from the house, like 150 – 200 yards from the house. He stated he limits it to two or three people staying there. Ms. Leerkes asked if there was going to be an address assigned to this location? Mr. Savett stated National Grid has a separate address and so does Spectrum. Mr. Savett added because it was advertised, when they bought it, as living space, his daughter lived there for 6 months, when he broke up with his fiancée she lived there for six months and her daughter lived there for 9 months, so it has been steadily occupied since they bought it.

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Acting Chair Harrison stated the next step would be to schedule a public hearing and send it to County, and it can be addressed then.

Mr. Savett asked if they consider it a residence if it is rented on a short-term basis, Mr. Terry replied if it is occupied by people, it is considered a principal use building.

Ms. Leerkes made a motion to accept the application, send to Saratoga County Planning to know what their response is to this and schedule the public hearing,

Mr. Becker 2nd the motion,

All in attendance unanimously agreed.

Acting Chair Harrison announced the next item on the agenda, **Application #: 0007-24, Matthew & Justine Lebowitz, located at 17 Wells Ln in the Agricultural District for a Use Variance, Airbnb.**

Mr. Lebowitz stated they live on a 50-acre parcel, he explained when their children were very young, they built a small cabin, approximately 18 x 24 feet, no electricity, no plumbing. He explained after they retired Airbnb came into existence, they started renting for short periods of time, like 2 or 3 days. Mrs. Lebowitz stated they did not know they could not do that.

Mr. Becker asked if they were planning on adding electricity, Mrs. Lebowitz replied no.

Mr. Terry stated he also performed a safety inspection for Mr. & Mrs. Lebowitz and they got a letter from Tom Hutchins, Engineer stating it is safe and can be inhabited by humans. He added people know what they are getting when they book it, they understand what they are in store for. Mr. Lebowitz added it draws people because of the fact there is no electricity.

Acting Chair Harrison asked why they were here, Mr. Terry stated because there are two principal buildings on the lot. Mr. Becker reiterated it was 50 acres, Mr. Terry said yes and explained because of the way it is situated it is not possible to subdivide, the way the lot and the driveway are laid out.

Ms. Leerkes asked if they can do stipulations and say they cannot add another cabin? Mr. Terry stated this will be it, he stated he perceives in the future with NY State and they are also working on it within the Town, accessory dwelling units, whether they are for family or relatives, there will be no stipulations of who can occupy this but it will be one extra per lot and it will be square footage wise, these two applications are going to meet the requirements and there will only be one cabin. Mr. Lebowitz stated they have no desire to add more.

Ms. Leerkes stated she was not talking about them but, somebody else may say I have property and build a cabin, then they decide it isn't going bad and they build more. Acting Chair Harrison stated it will be specific for that one application.

Mrs. Lebowitz stated they don't have any neighbors; one neighbor is about a mile down the road and the neighbor on the right is about a mile and a half down the road. Mr. Lebowitz stated they can't see them and neighbors can't see his property.

Mr. Becker asked if it doesn't have any improvements, is it considered a residence, Mr. Terry stated it is because they are inviting the public in, he stated he went over it with Mr. Lebowitz about smoke detectors, there was one or they put one in for life safety, he explained they are here because if after he knew about it and people were renting and something happened but as a Town we didn't do anything to make it conform it would

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fall on the Town. Mr. Terry reiterated people know what they are getting when they rent this cabin, inviting people in it has to meet the life safety, this will be something he will have to do an annual inspection on. He added there is a sink, there is water up there for the guest, Mr. Lebowitz added they bring the water up there and people hand pump it.

Mr. Becker made a motion to accept the application, send to Saratoga County Planning to know what their response is to this and schedule the public hearing,

Ms. Leerkes 2nd the motion,

All in attendance unanimously agreed.

Acting Chair Harrison asked if there were any old business, the Clerk responded no, he asked if there were additional discussion or comments of the Board before they adjourn, Ms. Leerkes stated she had mixed feelings, they had the similar situation and they had to do a subdivision, she stated she does not know where it happened, if it happened with the Planning Board or in zoning, she said she did not remember.

Mr. Becker asked Mr. Terry if they didn't rent would it be considered a second residence, any of the cases, Mr. Terry said yes and explained he is not going after Airbnb, because there is nothing in the zoning in regard to Airbnb's, it is all about zoning. He said the Town received a mailer advertisement for Mr. Savett's property, he stated he looked at it and could see what they were renting was not in the home, so he sent a letter and the applicant came in to discuss and let him go do a safety inspection, there are a couple of things Mr. Savett has to do, emergency lighting and escape ladder, but he said he informed Mr. Savett to wait until it was either approved or denied by this Board. Mr. Terry then explained there are certain owner-occupied exemptions in the building code for Mr. Lebowitz's property, so even if he wasn't renting it and people are in there it would still be considered a second residence. Mr. Terry said both applicants have been cooperative, they both invited him in to check it out and tell them what they have to do. He said he doesn't see it being a problem, but now that they know about it and if something happens then the Town is liable, and they do not meet zoning.

Acting Chair Harrison asked if there was a motion to adjourn the meeting.

Ms. Leerkes made a motion to adjourn the meeting at 7:22 pm,

M. Becker 2nd the motion,

All in attendance unanimously agreed.

Respectfully submitted,

Tia Kilburn, Zoning Board Clerk