

TOWN OF BENNINGTON
ZONING BOARD OF ADJUSTMENT
Minutes of the Meeting-May 2, 2023
Minutes accepted on June 6, 2023

Present Melissa Clark, Chairperson
 Robert Christian, Vice Chairperson
 Christopher Maple
 Jeffrey Rose

Guests Christopher Clough
 Joseph MacGregor, Conservation Commissioner
 Michael Munhall, Conservation Commissioner
 Cameron Quale, property owner
 Israel Piedra, Attorney for the applicant
 James Chervenka, abutter
 Maurice Paige, abutter

Chairperson Clark called the meeting to order at 7:00 p.m.

The minutes of the February 7, 2023 meeting were reviewed and accepted with a minor correction.

The minutes of the March 18, 2023 meeting were reviewed and accepted as written.

The Board had a question of how many alternates they are allowed to have. David Hardwick Sr. has expressed an interest in being an alternate for the ZBA.

In other business, Jeffrey Rose indicated that there are a number of updates that are needed on the Zoning Board of Adjustment Rules and Regulations. They will be addressed at the June 6, 2023 meeting.

Chairperson Clark called the Public Hearing for a variance request for Map7, Lot92 located at 189 US Highway 202 to order. The Board reviewed the application and a discussion was held concerning the definition of grandfathering. The proposed variance was requested so that applicant may remove a trailer from the property and replace it with a larger structure. Mr. Mac Gregor, a Conservation Commissioner, noted that there has not been continuous use of the trailer. The attorney for the applicant objected stating that the trailer should retain the

grandfathering status, though it has not been used in over a year, due to the fact that it is still there. Mr. Quale noted that he could live in the trailer if he had wanted to. The Board agreed to seek legal counsel to determine the status.

The property owner by Cameron Quale is located on a large strip of land in the village district with an overlay of the Water Resource Protection Zone. The property contains three residential dwellings and is located between a water source and railroad tracks.

The Board continued to review the facts in support of the variance request. 1, Granting the variance would not be contrary to the public interest. Mr. MacGregor asked how far away from the river frontage the trailer was located. The attorney for Mr. Quale stated that it is far enough away that Mr. Quale has been granted a shoreline permit as well as a septic permit from the State. It was stated that no trees will be cut down. The proposed house will be in a slightly different location of the trailer so that the front may face the river and the back will face the road. It is unknown if the trailer is on wheels or a foundation. A full walk out basement is planned for the proposed house. A vote was taken for fact #1. All were in favor.

2, If the variance were granted, the spirit of the ordinance would be observed. A vote was taken for fact #2 and all were in favor.

3, Granting the variance would do substantial justice. Mr. Chervenka asked if the house would be a short term or long-term rental. The applicant plans to live at the residence. It was noted that the condition of the occupancy is not a part of the variance conditions. A vote was taken for fact #3 and all were in favor.

4, If the variance were granted, the values of the surrounding properties would not be diminished. Mr. Quale noted that the proposed house would be an improvement from the trailer that currently exists on the property. A vote was taken for fact #4 and all were in favor.

5i, Unnecessary hardship. Owing to the special conditions on the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship. The property a 9.2 acre lot of which 3.3 acres is under the river bed. Mr. MacGregor noted that the hardship pertains to the property and not to the property owner. There are three primary dwellings on the property, each with their own address and a shared driveway. These three dwellings combined contain housing for five units. A vote was taken for fact #5i and all were in favor.

5ii, The proposed use is reasonable. It was noted that the applicant has a State approved septic permit, where as the trailer does not have a State approved septic permit. Mr. MacGregor asked if the variance were to be approved would this not add one more rental to the property expanding from four rentals to five? There is currently no family residing in the trailer. A vote was taken for fact #5ii and all were in favor.

Jeffrey Rose made a motion to accept the variance conditional of the grandfathering of the trailer and the approval from the town Attorney. The Board will get clarification of the term grandfathering from the Town Attorney. Robert Christian seconded the motion and all were in favor.

At 8:20 p.m. the Public Hearing for Map 7 Lot 92 was continued to June 6, 2023 at 7:15 p.m.

There being no other business before the board, the meeting was adjourned at 8:22 p.m.

Respectfully Submitted by

Debra Belcher
Zoning Board of Adjustment Recording Secretary