

TOWN OF BENNINGTON  
ZONING BOARD OF ADJUSTMENT  
Minutes of the Meeting- June 18, 2024  
Minutes accepted on August 6, 2024

Present       Melissa Clark, Chairperson  
                  Christopher Clough, Vice Chairperson  
                  Robert Christian  
                  Peter Martel  
                  Jeffrey Rose-by speaker phone

Guest Judith Heddy, applicant

Chairperson Clark called the meeting to order at 7:04 p.m.

Robert Christian made a motion to allow Jeffrey Rose to participate in the meeting via speaker phone as provided by RSA 91a:2III. Christopher Clough seconded the motion and all were in favor.

The minutes of the April 16, 2024 meeting were reviewed and accepted as written.

The minutes of the June 4, 2024 meeting were reviewed and accepted with minor changes.

The Public Hearing for a variance for the property located at 48 Whittemore Lake Road West, identified as Map 2, Lot 10 on the Bennington zoning map which had been continued from June 4, 2024 was opened at 7:15 p.m. Chairperson Clark shared the response from the Municipal Counsel about clarification of the Bennington zoning ordinance concerning attached dwelling units (ADU). As Bennington does not allow accessory dwelling units that are not attached to the main dwelling this property would require a variance to proceed. Jeffrey Rose suggested that the wording in article 7, section P of the Bennington Zoning ordinance be modified to include a description stating all lots of record. Robert Christian noted that article P could be removed. Peter Martel noted that the State is currently looking at allowing ADU's in detached units, but that is not the current case.

The Board continued with the five facts to support a variance. It was noted that the lot is very close to the required size to be conforming. The vote for supporting facts were as follows;

1. Granting the variance would not be contrary to the public interest.

The applicant responded proposed, "The proposed construction does not violate the basic objectives of the zoning ordinance. It does not alter the character of the neighborhood or threaten the public health, safety, or welfare of the public."

A vote was taken by roll call and all were in favor.

2. If the variance were granted, the spirit of the ordinance would be observed.

Because the garage exists, it will still look like a garage or maybe barn with a second floor. The proposed addition would be building up and not changing the current footprint. This proposal better meets the intent of the ordinance.

A vote was taken by roll call and all were in favor.

3. Granting the variance would do substantial justice.

The applicant proposed, "The proposed addition does not have adverse impact on the neighborhood. Allowing the addition follows the intent of the ordinance by allowing an ADU."

A vote was taken by roll call and all were in favor.

4. If the variance were granted, the values of the surrounding properties would not be diminished.

The applicant proposed, "The values of the surrounding properties would not be diminished as the building is pre-existing and will be improved. It was noted that there were no abutters who have objected."

A vote was taken by roll call and all were in favor.

5. Unnecessary hardship

The applicant proposed, "The main unit on the property is on the lake and is a non-conforming structure according to the DES." Building on top of the garage prevents the hardship related to waterfront setbacks as well as the burden of being "attached". A better solution is being offered in that it stays away from the waterfront issue and retains the appearance of a single family home, just as any other garage with living space above it would.

A vote was taken by roll call and all were in favor.

The variance for a detached ADU at 48 Whittemore Lake Road West, Map 2, Lot 10 was approved.

The Public Hearing was closed at 7:50 p.m.

In other business, Peter Martel reported the availability of training for the Zoning Board of Adjustment. It was suggested that Peter Martel keep the Board members informed of upcoming trainings and events.

As there was no other business at hand, the meeting was adjourned at 7:56 p.m.

Respectfully Submitted by

Debra Belcher  
Zoning Board of Adjustment Recording Secretary