

Town of Northumberland Zoning Board of Appeals
Wednesday,
October 2, 2024 7:00 pm
Accepted by Zoning Board
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Zoning Board Members Present: Maureen Leerkes, Anne Haag, Christopher McMahon, Sarah Mojzer, Vice Chairperson and Chairman Mark Boyce

Zoning Board Members Absent: Carl Harrison and Paul Becker

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

Quorum Established

Chairman Boyce called the meeting to order at 7:02 PM
All in attendance stood and recited the Pledge of Allegiance.

Acting Chair Harrison announced the first item on the agenda public hearing, **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 looking to replace a mobile home that has been existing since 1969 with a new model on his property. Chair Boyce asked if it would be the same footprint, Mr. Martindale responded it will be a little wider.

Chair Boyce asked if there were any questions from the Board, Ms. Leerkes replied no, they covered it all at the last meeting. Chair Boyce asked if there were any questions / comments from the audience, none were noted.

Chair Boyce stated they had correspondence back from County Planning, he asked if there were anything else required for this application, the Clerk stated there is nothing additional required, she explained she received an e-mail from the people owning a parcel behind this parcel on the river, if this were denied and they had to move the trailer 5' it would interfere with a right of way for access to that neighbors land locked parcel, she submitted an aerial photo to the Board showing the parcels and right of way. Mr. Martindale agreed and stated the trailer would then be in the driveway. Chair Boyce reiterated the neighbor is not opposed to this application; the Clerk agreed. Vice Chair Sarah Mojzer stated if the variance is granted the neighbor will be able to get by to her parcel.

Chair Boyce asked if there were a motion to close the public hearing for this application,
Ms. Leerkes made a motion to close the public hearing,
Mr. McMahon 2nd the motion,
All in attendance unanimously agreed.

Chair Boyce announced the next item on the agenda public hearing, **Application #: 0006-24, Noah Savett, located at 168 West River Rd in the Agricultural District for a Use Variance, Airbnb.**

Mr. Savett stated he has established living space he is using for an Airbnb, when he purchased the property part of the description of the property included living space above the barn, full kitchen, full bathroom. He stated he did not do any structural modifications; he has only put new fixtures in the bathroom. He said he rents this as an Airbnb because he needs the extra cash to keep the property going.

Ms. Haag asked how many people at one time has he rented to? Mr. Savett stated there is only one bed so a maximum of two, he added it has only been in operation since the beginning of October of 2023. Most of the people come alone, there was one that came with three people, it was a woman and her two children. Ms. Haag asked if there was street parking, Mr. Savett stated there is covered parking in one of the barns.

Ms. Haag stated they still do not have a definition of short-term rentals? Chair Boyce stated not to his knowledge, he doesn't think there is anything, Mr. Terry, Code Enforcement Officer agreed and stated there isn't anything in Zoning for it, that is why we are doing it on a case by case basis. Mr. Savett stated he heard Gov. Hochul has established a 4% State Tax on them, he stated at some point each municipality will probably add more tax on them, so that will be more tax money.

Mr. Savett stated he has spoken with one of his closest neighbors and she has no objection to it.

Ms. Leerkes asked what the period was that he usually rented it for, like a weekend? Mr. Savett replied, an assistant conductor of the Philadelphia Orchestra stayed for 12 days, that was the longest, often it is one day or a weekend. The woman with the kids stayed for Presidents Day weekend in February.

Ms. Leerkes asked if there were any correspondence from any of the neighbors, the Clerk replied no.

Chair Boyce asked if there were any additional questions from the Board, Vice Chair Mojzer asked how he came about coming to this Board? Mr. Savett stated a friend recommended he send a mass mailing out to the people in Schuylerville that didn't have extra rooms in their houses for people showing up for events in the area, so it was brought to the attention of Mr. Terry, and he received a certified letter from him.

Chair Boyce asked if there were any public participation from the audience, Kathy Roberts stated she is a neighbor across the street, she stated Mr. Savett's business is quiet and they don't even know when anyone is there, she stated he is respectful, and it is a good positive addition to the neighborhood.

Ms. Martindale asked if the location was with the red barns, she stated she drives by there 14 times a day and there is never a problem with traffic or people, she did not know it was there.

Chair Boyce asked if there were a motion to close the public hearing for this application.

Ms. Leerkes made a motion to close the public hearing,
Vice Chair Mojzer 2nd the motion,
All in attendance unanimously agreed.

Chair Boyce announced the final public hearing on the agenda, **Application #: 0007-24, Matthew & Justine Lebowitz, located at 17 Wells Lane, in the Agricultural District for a Use Variance, Airbnb.**

Mr. and Mrs. Lebowitz addressed the Board, Ms. Lebowitz stated it is a one room, off the grid cabin, it is located on their property, 50 acres and they have to drive through their property / farm to get to it, a maximum of four people, no running water, there is no electricity they rent it in the summertime. Mr. McMahon asked if there was a line of site from the neighbors, Ms. Lebowitz responded no because each neighbor is probably a mile from them on each side.

Ms. Leerkes asked how they handle the septic, Ms. Lebowitz stated there is an outhouse, a cement outhouse lined with copper. Ms. Leerkes asked how long do they rent each time? Ms. Lebowitz stated it is usually 2 days because it is a glamping type of thing, there is no television, no internet. She stated they do not rent it in the

winter at all, it is seasonal.

Ms. Leerkes asked if they access it through the driveway, Ms. Lebowitz explained they come up the lane, and they go through the farm, they do not come near the house.

Chair Boyce asked if there were any correspondence, none was noted. He asked if there were any questions from the Board or the audience, none were noted. He asked if there was a motion to close the public hearing for this application.

Ms. Leerkes made a motion to close the public hearing,
Vice Chair Mojzer 2nd the motion,
All in attendance unanimously agreed.

Chair Boyce stated they will open the regular monthly meeting and start with the same order, **Application #: 0005-24, Jason Martindale, 5-foot area variance at 658 West River Rd, SBL#: 118.-1-9.11, agricultural zone**. He asked if there were any discussions by the Board, none was noted. He asked if there were a motion for this application.

Vice Chair Mojzer made a motion to approve the 5' area variance for application #0005-24,
Ms. Leerkes 2nd the motion,
Chair Boyce asked for a roll call vote;

Maureen Leerkes	Aye
Chris McMahan	Aye
Anne Haag	Aye
Vice Chair Sarah Mojzer	Aye
Chair Boyce	Aye

Motion passed; application approve.

Chair Boyce the next item on the agenda, **Application #: 0006-24, Noah Savett, Use Variance at 168 West River Rd, SBL#: 144.-1-1.3, Agricultural Zone**.

Chair Boyce asked if there were any discussion among the Board, Ms. Haag said yes and stated she is increasingly uncomfortable going in either direction on something they have no definition of. She added it will come back and bite them in the butt. Chair Boyce stated they don't have one on Airbnb's, this is more a short term rental, Ms. Haag agreed and reiterated they do not have a definition, Chair Boyce agreed and stated that is the reason they are having the discussion now.

Chair Boyce asked if there were any further discussion from the Board, either about this application or in general, Ms. Leerkes asked if there were something that should be done, a stipulation so it doesn't become an apartment type of situation? Mr. Brennan, Town Council stated they could, he said there are some policy level of things to think about, there is probably a whole segment of people who are in business that Airbnb is worst than having it as a full-time apartment because of the housing shortage, something that would be a residence and putting it into an Airbnb limits people who live in Town and can't find a housing opportunities. He stated there is a lot of public policy discussion well above this level whether these are good or bad for society. He said what he would say on these but not necessarily to these people tonight is this gentleman bought it and it was there, but it was there because someone built it without a building permit then all of a sudden it pops up and gets in front of the building and zoning department and they do their job and looking at it for health and safety issues, what he would say is to not reward people for not following the rules, creating structures without

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building permits with the right features for particularly health and safety. Mr. Brennan stated he looked in response to Ms. Haag's concern about the definition and we do have a boarding and rooming house type dwelling, in which rooms with or without food are offered for rent so there are some that we have rental units in the community, they are not quite an Airbnb, but it is not that different from a boarding or rooming house with one room or unit vs. three or more. He stated he is not disagreeing with the Board but it goes to housing opportunities, the Town Board is looking at the issue because there is another vote for more apartment units and we don't have a definition for apartments or multi family housing which is what this is, in most communities, more urban ones, you have two and three family residences and we just don't have that. Mr. Brennan added he thinks this is going to be picked up in the very near future, in the interim they are handling each one as they come in front of us. Ms. Haag asked if the definition for it will come from Planning or the Town Board? Mr. Brennan replied if the Town Board acts on it, it will come from the Town Board to put in a definition, and there is something at the State level, it is recent like in the last 6 months, the State is going to step in and if the community has regulations that is fine, but the State is looking at overall state wide regulations for Airbnb which is a new frontier in housing and he expects there will be some kind of health and safety things and it will be picking up the fact there are some grievances on the typical hospitality, hotels and motels occupancy tax that, it is an evolving situation. Mr. Brennan stated there was one that they did not let them rent for a variety of reasons, it was a cabin, it was built without permits with electricity, no inspections so we are not going to reward people for going out and doing it on their own.

Mr. McMahon reiterated they do not have a definition for short term rentals vs. long term rentals so basically we are looking at this as is this building going to be a legal dwelling. Mr. Brennan stated they do have a boarding, lodging and rooming house, which is a private dwelling which rent 3 but not more than 6 rooms with or without meals are offered for rent so you can look at this and say it is a bit of a use variance and whether or not it is allowed in the district it could be a little bit of an area variance, we don't have 3 rooms we have one. He stated it is not unheard of in the code that there are spaces for rent within the community, he stated he doesn't think it is that far out of what is definition of the term, boarding and rooming houses is an antiquated term, the code needs to be tweaked a little and he thinks the Town Board will be taking a look at those things. Mr. Brennan stated he has a comfort level in saying this is ok in the situation that the Board feels it is ok.

Vice Chair Mojzer stated they would be having this discussion whether it was a long term or short-term rental, Mr. Terry agreed because whether it is an apartment or an Airbnb it is still two dwellings on one property. Mr. Brennan explained if someone came in and said they wanted to do this from scratch, they would go into the office, pull a building permit and Mr. Terry would deny it because it is not consistent with Zoning, he would refer it to this Board, in these situations tonight they are already existing.

Ms. Leerkes asked Mr. Terry if he inspected this, Mr. Terry stated yes, he inspected both and he gave Mr. Savett a list of things he would have to do if it was approved. Mr. Terry said he suggested Mr. Savett do this now and if approved, then spend the money. He added there is a list of things Mr. Savett will do and then he will go and check them. Mr. Brennan added any approval would be conditioned on code enforcement compliant with Mr. Terry's list of conditions. Chair Boyce asked if that would be part of the building permit process. Mr. Terry stated they are small, with Mr. Savett it is an upstairs apartment, power goes out he needs battery powered backup lights, exit signs so people staying in a strange spot and the power goes out, it is dark there are lights and exit sign pointing at the door and there is an exit at the bottom of the stairs. Mr. Savett stated after Mr. Terry inspected it, he contacted a contractor, and he is on call to do it if he gets an approval.

Mr. Brennan stated his last comment is the first application they did for the 5' area variance was exempt from SEQRA, State Environmental Quality Review, but for use variance, if the Board gets to an approval, he thinks they should by resolution consider it a negative declaration on SEQRA that it is not going to impact the

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environment. Chair Boyce asked if they need to fill out the SEQRA form, Mr. Brennan stated the first application was exempt, the two use variance applications should have a negative declaration, he added he is comfortable with it, because the Board knows what is on the form you can declare a negative declaration and the Clerk and Mr. Terry can collect the forms.

Chair Boyce asked if there were any additional discussion, questions or comments, none were noted.

Chair Boyce made a motion to declare a negative declaration for SEQRA for application #0006-24, as it does not have a significant impact on the environment,

Vice Chair Mojzer 2nd the motion,

All in attendance unanimously agreed.

Vice Chair Mojzer made a motion to approve application #0006-24 conditioned on the Code Enforcement Administrator's recommendations and requirements being satisfied, Chair Boyce asked if there are any additional conditions, Vice Chair Mojzer added limited to three individuals and no on street parking,

Mr. McMahon 2nd the motion

Chair Boyce asked for a roll call vote;

Maureen Leerkes Aye

Chris McMahon Aye

Anne Haag Nay

Vice Chair Sarah Mojzer Aye

Chair Boyce Aye

Motion passed; application approve.

Chair Boyce instructed Mr. Savett see Mr. Terry regarding the list of deficiencies and being able to use it as a short-term rental. Mr. Savett stated he will work through the list and notify Mr. Terry when it is complete.

Chair Boyce the next item on the agenda, **Application #: 0007-24, Matthew & Justine Lebowitz, Use Variance at 17 Wells Ln, SBL#: 104.-1-105.1, Agricultural Zone.**

Chair Boyce asked if there were any discussion or questions, Mr. Brennan stated his comments are the same on this one other than to clarify, are the sanitary facilities up to specs and Mr. Terry is satisfied with that. Mr. Terry stated yes, the people renting know what they are getting, Mr. Brennan asked if they are suitable for what he has to approve under the sanitary code, Mr. Terry agreed.

Chair Boyce asked if there were a list of items for this application, Mr. Terry stated he inspected the cabin last year and what he needed was a letter for the structure itself and he has that.

Chair Boyce stated this reminds him of another primitive rental that came before the Board, and that came before the Board because the applicant was interested in installing solar panels to add to the rental appeal, Mr. & Mrs. Lebowitz stated they will not be installing solar panels, people like it without power.

Chair Boyce reiterated they rent to a maximum of 4 occupants at a time, Vice Chair Mojzer asked if they could put a condition on it that if they made improvements, they would apply for a building permit and this would get revisited, Mr. Terry asked if she meant if they add on to it, Vice Chair Mojzer explained, improvements as making it a full time residence, Ms. Lebowitz stated it is on a hill and in the winter it is almost impossible to access and to put electricity up there would be \$50 - \$60,000 and you would have to build a road. Vice Chair

Mojzer stated they could make it a separate parcel, Ms. Lebowitz stated they will never do that in their lifetime. Mr. Brennan stated he thinks they can add a condition to Airbnb short-term rental, the first application for Airbnb was more of an apartment with electricity, water and septic and if the right tenant came along that one could be a true apartment for 12 months, if everything is to Mr. Terry's satisfaction. He added this one is truly a short-term seasonal, Mr. Brennan stated they don't want someone in the future, if they sell to buy it and say they have two houses, that is not what they are approving, they are not approving a second residence or a full time rental unit, what they are approving is a short-term Airbnb for this particular purpose, if that wants to be changed it would require an application to the Code Enforcement Officer and from there they would make a determination of what permits are required, in this case Mr. Brennan stated he thinks that is appropriate to the situation. He added each application is on a case-by-case fact specific situation.

Chair Boyce made a motion to declare a negative declaration for SEQRA for application #0007-24, as it does not have a significant impact on the environment,

Ms. Leerkes 2nd the motion,

All in attendance unanimously agreed.

Vice Chair Mojzer made a motion to approve application #0007-24 conditioned on maximum of 4 occupants at a time and maximum stay of 7 nights, Chair Boyce asked if there were any other conditions,

Ms. Leerkes asked if they could limit the rental time period from March 1st to November 1st. Mr. Brennan agreed because they are having something without utilities and insulation.

Ms. Leerkes 2nd the motion

Chair Boyce asked for a roll call vote;

Maureen Leerkes	Aye
Chris McMahan	Aye
Anne Haag	Nay
Vice Chair Sarah Mojzer	Aye
Chair Boyce	Aye

Motion passed; application approve.

Chair Boyce asked if there were any corrections to the August meeting minutes, none were noted.

Ms. Leerkes made a motion to approve August meeting minutes as submitted,

Vice Chair Mojzer 2nd the motion,

All in attendance unanimously agreed.

Chair Boyce made a motion to adjourn the meeting at 7:42 pm,

Vice Chair Mojzer 2nd the motion,

All in attendance unanimously agreed.

Respectfully submitted,

Tia Kilburn, Zoning Board Clerk