

Zoning Board Meeting 1/25/2023

Members in attendance: Diane Kendall (Chair), Janet McEwen, Michael Ott, David Clater, Shelly Nelkins and Planning Board Consultant Carol Ogilvie

Applicants for variance Cory Staat in person and Cynthia Staat on the phone speaker

Members of the Public: Paul C. Daly Jr., Rebecca Hull, Emily Cutter, Jon Murray, Michael Dellasanta, Scott Blair, Dario Carrara, Town of Antrim Code Enforcement Officer and Marshall Gale Antrim Fire Chief.

Public Meeting called to order at 7pm by the Chair Diane Kendall.

1st item the Chair requested a motion from the Board to table the previous minutes so Public Hearing could proceed. Motion made by Michael Ott and seconded by David Clater all members in favor motion passed.

Chair Kendall then opened the Public Meeting. She introduced the members of the Board and reviewed the process of considering a variance request. Ms. McEwen read the public notice as written and the Board acknowledged the abutter letters had been sent out by the previous planning assistant, as required, the notice had been posted on the Town website, @ Town Hall and 1 other location.

Cory and Cynthia Staat are requesting a variance to article RSA 674:33 article XIV, Section L Of the Town Zoning Ordinance to permit occupancy of a recreational vehicle while the applicant's primary dwelling is being constructed. They have occupied the vehicle since the purchase in 1/21/2021.

Chair Kendall reviewed the process for running the meeting and the 5 variance items that are required to be met to approve the request.

The 1st item was for the Board to determine if the application was complete. The applicant presented his application and the Board was then able to ask questions of the applicant. A motion to accept the application as complete was made By Mr. Ott, 2nded by Ms. McEwen. The vote was unanimous to accept the application as complete.

Chair Kendall then opened the public hearing. Regarding the application she mentioned this was actually allowed if the applicant held a valid building permit which they do not. The Board then had the opportunity to ask questions of the applicant for clarification of their request. Ms. Nelkens asked questions on the DES concerns, drawing of water and septic issues and wetlands issues. David Clater requested questions on the actual time line of the various events leading to this request. Mr. Staat began to review his personal struggles around obtaining a building permit. They needed a survey to be able to have the septic designer clarify the area they want to have their septic placed as well as a design being completed. They had issues with the DES compliance, obtaining a town driveway permit, neighbor's complaints, heir septic designer not completing a survey necessary in a timely fashion until after numerous requests to do so. This was required for the designer to complete a plan. It was not until the received notice by the town that they are in violation on 9/23/22 At that time the designer was notified and prepared a design dated 1/11/23. It is not clear if this was submitted to the State for

approval yet. They currently do not have an approved plan. Again Mr. Clater asked about dates on the timeline.

Ms. McEwen requested specifics again on the timeline, as well as the due diligence at time of purchase that would be required to build the need to obtain a building permit as part of the process to build and occupy the land. She questioned their knowledge of the zoning ordinance requirements as well as State of NH rules for the sewage disposal

Mr. Staat first presented his prepared written packet to the Board to review. He discussed their plans for home construction and lack of knowledge on the Zoning ordinance and issue with DES rules of septic disposal, obtaining a water source from a stream on the property as well as disposal issues around gray water and black water. Mr. Staat denied having done the due diligence on his part investigating town and State rules and regulations to build a home. He agreed now, that it was his responsibility and he failed to do so.

They stated the septic application was delayed due to survey issues from or the designer, even after multiple calls to design a septic plan in the location they wanted to build. He discussed their intent to be good stewards of the land.

There is a medical necessity for that location due to their son's health issues.

Cory Addressed the 5 criteria why they felt they why he felt they met the 5 criteria for the variance approval on application.

Chair Kendall presented the letters that had been received (see attached). She asked if there were any department heads wanting to speak. Darion Carrera, building inspector spoke to the ordinance that only 3 weeks of occupancy was allowed without the building permit. If they had a building, permit they would have been allowed 6 months to build and with selectman approval extensions. Full time occupancy is determined as just that as well as using the that property as their full time residency, mailing address using schools etc.. As of 1/22/23 they have no permit, nor a previous request for zoning relief. He gave an update to the process, as well as referencing his update of what they would be required to obtain one which was presented to the Board in writing (see attached).

Marshall Gale, Fire Chief was the next to speak. He had had numerous conversations with the applicant on the DES violations RSA 485 on discharge and drafting water from the stream. 12/15 there was a cease and deist order, and the pipe was removed. Regarding health and safety of the vehicle they are following issues around egress, fire and carbon monoxide monitors. The are having the septic regularly emptied to comply.

Chair Kendall presented the response letters received by department heads and public with general comment. The were in the Board packet and (are attached to the minutes)

Once his presentation was complete Chair Kendall clarified to the public that this was the time for the Board to ask questions of the Applicant. Member of the public were made aware that the would have opportunity to ask questions later.

Chair Kendall now reserved the time for members of the board to ask questions. Questions presented were around the date they began occupying the camper as a fulltime residence, knowledge of issues

pertinent to building and requirements to build as part of their purchase due diligence, DES violations, their timeline for applying for building permit.

The applicant stated they purchased the property 1/21/2021 and moved in soon after in January. Relative to obtaining a building permit they had spoken with Dario early on and he made them aware of the requirements that would need to be met to obtain a permit. The applicant, regarding the DES issues they weren't aware of the issues of drawing water from the stream and around the issues for disposal of gray and black water from the State. The applicant stated septic was emptied on a regular basis from a private company. They had numerous issues around obtaining a survey to clarify boundaries, which caused a delay in septic design and wetlands delineations. As required for a building permit. They obtained a State driveway permit April of 2021. He indicated that they didn't really follow-up and investigate the process to build and timeline for occupying the property in the camper. Cory stated again he now knows it was his responsibility. He received a certified letter from the Town on 9/23/22 that they were in violation of the ordinance.

The Chair then declared the public meeting open

The Chair then asked if there were any abutters who wished to speak in favor of the ordinance. Paul Daly spoke in favor raising delays around COVID, hardship to the family as well as an abutter he had no issues with them living there. John Murray spoke in favor especially around the hardship especially their son's and not objecting to them living there.

Chair Kendall asked if there were any abutters wanting to speak in opposition of the application. Ms Hull spoke of the reason for her opposition as well as supporting documentation from DES regarding the violation of laws these were all in the Boards, packet (see attached).

Michael Delasanta was not in support and was very vocal in his response Chair Kendall reminded all to speak in a respectful manner. He also had reference to a letter submitted by his wife not in support.

Scott Blair also spoke in opposition due to the current ordinance and failure to follow it.

Chair Kendall inquired if any non-abutters wished to speak, there were none.

Mr. Staat was offered the opportunity to rebut. He reiterated much of what was said before. Chair Kendall requested he stay focused on only the issue of the variance request and asked if there was any new information for him to provide and there was not.

The Chair presented the summary of the facts and request. The offer was made for comments again from the floor prior to closing for deliberation.

At that time Chair Kendall closed the public hearing and explained that they were no longer allowed to speak and it was time for the Board to deliberate on the variance and the process and that process.

#1 The variance will not be contrary to the public interest: As a consensus the members discussed this issue and felt it would be so they were not in agreement with this request and it was contrary to the public interest. There was a process that should have been complied with in the ordinance and clearly there had been environmental concerns and complaints.

2 The spirit of the ordinance is observed upon board member discussion consensus was it was not being observed. There is a process in place and applicant chose not to follow it.

3 Substantial justice is done. After discussion consensus by the board was this was met.

4 The value of the surrounding properties are not diminished as a discussion and consensus this was difficult to determine in today's current real estate market.

#5 The literal enforcement of the provisions of the ordinance would result in unnecessary hardship:

The entire board felt strongly upon discussion the applicant did not meet this requirement. Clearly the applicant was aware of the process and the hardship is based on that and issues pertaining to the land creating the hardship, not on their own personal hardship.

At this time Ms. Nelkens made the motion to close the discussion, seconded by Mr. Ott and all voted in favor.

The motion was made to call this to a vote by Ms. Nelkens, seconded by Mr. Ott, the vote was unanimous to deny the application.

The Board addressed to Mr. Staat that it was unfortunate, however as soon as he can get his building permit the conditions of the ordinance will be met and they can return to living on site and look forward to his building his home. The Board wished him well and encouraged him to ask for guidance from resources through the town to assist him to expedite and guide him through the process.

Mr. Staat thanked the Board for their consideration on his application.

Moving on, Chair Kendall stated there were no minutes available to review. She reminded the Board of the upcoming OSI training in May. The town continues to look to hire a Panning Board Assistant and to encourage potential applicants to apply. Ms. Olgivie let Chair Kendall she will be preparing the notice of decision for her review.

A motion was made by Ms. McEwen to adjourn and seconded the Board voted unanimously in favor

Mtg ended at 9:10pm

Respectfully submitted by Janet McEwen