

ZONING BOARD OF ADJUSTMENT

**TOWN OF EASTON
1060 EASTON VALLEY ROAD
EASTON, NH 03580**

**PUBLIC MEETING
JULY 28, 2015**

MINUTES

The meeting was called to order at 7:05 p.m. Present for the Board were Chairman Greg Sorg and regular members John Hynes, Dennis Ford and Ellen Pritham. Alternate member Kris Pastoriza was designated to serve in place of Ned Cutler, who had disqualified himself. A quorum was therefore present and so declared. Also attending the meeting were Easton residents Tom Boucher, Bob Thibault, Jim Collier, Barbara Collier and John Vail.

The Minutes of the Board's organizational meeting of June 10, 2015 were approved unanimously.

The Board then convened the public hearing on the application of John Vail for a variance from Article 6, Section 602.1(a)(5) of the Easton Zoning Ordinance to permit an existing and non-conforming "grandfathered" two-family house at 652 Easton Valley Road (Tax Map 1, Lot 43A) to be remodeled so as to create a structure with three living units. The legal notice of the hearing, as published in the June 23, 2015 issue of *The Littleton Courier*, was read. It was confirmed that all the abutters on the list submitted by the Applicant with his Application were properly notified by certified mail and that notice of the hearing was properly posted. The members unanimously agreed that this Application did not involve a development of regional impact for purposes of RSA 36:57.

The public hearing on the Application then opened and was presented by John Vail, and he answered questions from Board members. Comments from the members of the public attending were then solicited. Jim Collier spoke in favor of the Application. No one spoke against it.

The basis of the Applicant's case is set forth in the Application contained in the Board's file, and his testimony was consistent with the Application. Questions from the Board to the Applicant focused upon (1) whether the conditions of the subject land are truly unique, or are similar enough to other parcels in Easton that the grant of a variance would set a precedent obliging the Board to grant others; (2) safety concerns should an additional living unit increase the number and frequency of vehicles entering and exiting the property from Route 116; and (3) doubt as to whether the case met all the legal standards necessary to justify the grant of a variance.

Testimony and questioning having concluded, the public portion of the meeting was closed. Following deliberation, the Board voted 3 to 2, Dennis Ford and John Hynes dissenting, to grant a variance to allow the existing non-conforming use of the house at 652 Easton Valley Road to be modified so as to contain three rental units. With respect to each criterion for the grant of a variance set out in RSA 674:33, I(b), the Board found and voted as follows:

(1) The variance will not be contrary to the public interest:

The Board accepted the Applicant's view that the potential density (number of occupants) of the building would likely be no greater with three units more rationally configured than with the present two unit arrangement. (Vote: 3-2)

(2) The spirit of the ordinance is observed:

The Board accepted the Applicant's view that the location of the building right on the edge of the right-of-way of Route 116 does not lend itself to conversion to a single family dwelling, and that potential purchasers of property in Easton for use for single family purposes would be far more likely to invest elsewhere in the Town, away from the proximity, danger and noise of Route 116. The Board concluded that the guiding purposes of the Easton Zoning Ordinance "to protect the value of the property, to prevent the overcrowding of the land, to avoid undue concentration of population, to provide adequate air and light, [and] to facilitate the adequate provisions of other public requirements," would be better served were this building to become more viable for improvement from its present dilapidated state by allowing a modification from its presently vested non-conforming use. (Vote: 4-1)

(3) Substantial justice is done:

The Board was unable to perceive any gain to the Town as a whole from either requiring the property to be limited to its presently vested non-conforming use, or (by reason of that use's abandonment for economic reasons) forcing the property to revert to the conforming use of single-family dwelling. The Board concluded that any such gain as might be perceivable would not outweigh the detriment to the Applicant or to any subsequent owner of the property were the requested variance to be denied. (Vote: 4-1)

(4) The values of surrounding properties are not diminished:

It seemed to the Board self-evident that rehabilitation of the building, following as a natural economic consequence of the improvement of its rental income producing potential brought about by the grant of the requested variance, would augment rather than diminish the values of surrounding properties. (Vote: 4-0 (with one abstention))

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

This property appeared to the Board to be unique in the Town of Easton given the combination of its location in very close proximity to Route 116, its unsuitability for renovation and sale (or sale and renovation) as a conforming single-family dwelling, its history of deterioration over the period of the last thirty years or more under its presently existing non-conforming use, and its present and likely continuing state of dilapidation. The Board concluded that, short of the unnecessarily drastic solution of limiting its owner as a practical matter to razing the building and constructing a new building elsewhere on the land, a reasonable use cannot be made of the property without the grant of a variance. (Vote: 4-1)

There being no other business before the Board, at 9:25 p.m. it was moved, seconded and voted to adjourn the meeting.

Gregory M. Sorg
Chairman