



Town of Hill
Zoning Board of Adjustments
30 Crescent St. Suite 1
Hill, NH 03243

NOTICE OF DECISION

Attention: Carl Rider
58 Patten Rd.
Hill, NH 03243

RE: Request for Variance of Town of Hill Ordinance Article V, Paragraph (B) (7).

Dear Mr. Rider,

02/13/2020

Upon consideration, the Zoning Board of Adjustment finds there to be sufficient grounds to conditionally approve your request for a variance of the Zoning Ordinance, as it pertains to your specific circumstances. Pursuant to NH RSA 674:16 the applicant must meet the burden of 5 critical criteria as follows;

- (1) *The variance will not be contrary to the public interest;*
- (2) *The spirit of the ordinance is observed;*
- (3) *Substantial justice is done;*
- (4) *The values of surrounding properties are not diminished; and*
- (5) *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.*
 - (A) *For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:*
 - (i) *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;*
and
 - (ii) *The proposed use is a reasonable one.*
 - (B) *If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

III. The concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

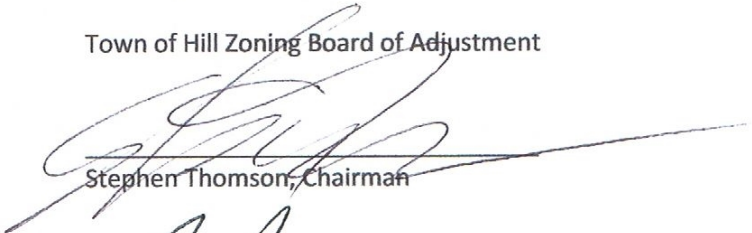
Conditional approval of the application is based on a *Variance and is not considered a special exception as there was no application submitted for, or grounds for, a special exception. {The email sent Mr. Rider, containing an excerpt noting the opinion of the Town's legal adviser, suggested the process was to seek a variance from the ZBA opposed to the proper process of submission to the Town's Planning Board for site plan review} The ZBA ruled upon the application for variance and its merits only after presenting the Planning Board the opportunity to consider the matter and conclude a site plan review if deemed warranted. The Planning Board remanded the application to the ZBA for final disposition without taking any action. Therefore, the ZBA's decision is final.

The Board finding sufficient grounds to approve a conditional variance, by a unanimous vote, as required by NH RSA 674:16 of a board of (3) members, hereby applies the following conditions of approval:


- The Building Permit issued by the Selectmen's Office on September 17th, 2019 must be updated to include the 896 sq. ft living space. The livable space shall not exceed 896 Sq. ft and is considered a temporary living unit with the structure's primary use being a "garage."
- The detached unit shall remain detached however it will share the previously approved by the State of NH effluent disposal system and potable water source.
- Upon transfer of title of the property, the living space above the garage shall be vacated with the living unit being dismantled. The space above the garage shall thereafter be considered storage area, restoring the property to a single dwelling property.
- Upon transfer of title of the property, the new owner shall appear before the ZBA to show the ADU has been dismantled <or> REAPPLY for a Special Exception of the Town Ordinance under the specific requirements of the application for an Additional Dwelling Unit (ADU).
- No further development of the property shall occur without prior approval of the proper board after submission of the appropriate application(s).

Best Regards,

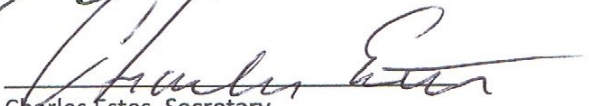
Town of Hill Zoning Board of Adjustment



Stephen Thomson, Chairman



Ian Gardner, Vice Chairman



Charles Estes, Secretary