

**TOWN OF POMFRET  
Zoning Board of Adjustment**

Minutes and Memorandum of Decision

Permit Application: #ZP22-30  
Property Address: 201 Bartlett Brook Road, South Pomfret  
Parcel No.: 3901  
Parcel Size: 10.2 +/- acres

Property Owner: Adam Von Reyn  
201 Bartlett Brook Road  
South Pomfret, Vermont 05067

Applicant: Adam Von Reyn  
201 Bartlett Brook Road  
South Pomfret, Vermont 05067  
Email: [on file]

**I. Introduction and Procedural History**

**A. Application**

Adam Von Reyn is seeking approval to construct on his property a 4-bedroom single-family dwelling, and a detached 24' x 36' garage. The new dwelling is two stories, totaling 2,599 square feet, with a 1,543 square foot walk-out basement that would have its own septic system and shared well water with the existing dwelling on the parcel, utilizing the existing driveway to be shared with both dwellings.

The Zoning Permit Application (the Application) dated August 18th, 2022 was referred to the Zoning Board of Adjustment (ZBA) for conditional use review by the Zoning Administrator (ZA) on September 12, 2022. The Application and all supporting documents are on file at the Town Office.

On September 15th, 2022, notice of a public hearing was posted at the Town Clerk's Office, North Pomfret Post Office and on the Pomfret Vermont website. On September 15th, 2022, notice was published in the *Vermont Standard*. The ZA mailed the notice to the property owners abutting the subject property.

**B. Site Visit and Public Hearing**

Following a site visit at the property on Thursday October 6<sup>th</sup>, 2022 at 5:00 pm, the ZBA considered the Application at a public hearing on Thursday October 6<sup>th</sup>, 2022 at 6pm via in the Town Office and by Zoom Meeting.

- Present at the site visit were the following members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Phil Dechert, and Shaun Pickett. Also present were Karen Hewitt Osnoe (ZA), Adam Von Reyn (Applicant) via phone, Nicole Youngwirth via phone, and Nira Granott-Fox (abutter).
- Present at the hearing were the following members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Phil Dechert, and Shaun Pickett. Also present were Karen Hewitt Osnoe (ZA) and Nira Granott-Fox (abutter). Adam Von Reyn (applicant) and Nicole Youngwirth were present via zoom meeting.
- The meeting was opened at 6:00pm by ZBA chair Alan Blackmer.
- At the outset of the hearing, the ZBA afforded those persons wishing to achieve status as an interested party an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. Nira Granott-Fox was granted interested party status.
- During the hearing the following testimony was heard from Adam Von Reyn:
  - The new 4-bedroom home will be an energy efficient dwelling utilizing the solar already on site.
  - The subject parcel is listed at 10.2 ± acres.
  - The new single-family dwelling will have a separate wastewater system but the well and driveway will be shared with the preexisting residence.
  - Adam Von Reyn stated that they would use the existing dwelling as potential for a rental home or eventually moving aging parents closer to him.
  - Adam Von Reyn indicated that he has no future plans to subdivide property although the placement of new single-family house site could potentially allow property owner to do so.
  - The permit application submitted to the ZA stated height as 37' from the lower part of the dwelling and 27' feet from the upper part, with a resulting height above proposed finished grade of 32'.

## **II. Applicable Regulations**

- Under the Pomfret Zoning Ordinance (the Zoning Ordinance), any land use that is not exempt, permitted, or prohibited is a conditional use.
- Construction of the new single-family dwelling and detached garage is neither exempt from the Zoning Ordinance nor eligible for an administrative permit from ZA because there is an existing dwelling on the same parcel. Therefore, conditional use

approval by the ZBA is required.

- Conditional uses must meet the general standards in Section 4.1, the general conditional use standards in Section 4.2 and any applicable special standards in Article 5. Additional limitations in Section 4.4 apply to “Non-Conforming Structures” that do not conform to the Zoning Ordinance but are otherwise lawfully existing.
- Section 4.1 (2) **Maximum Height.** No structure of part thereof, except farm buildings, antennae, chimneys, cupolas, steeples or similar roof structures; windmills; or telecommunications towers shall exceed 35 feet as measured from the average elevation of the proposed finished grade around a structure to the highest point of the roof. The distance measured is exclusive of chimneys, lightning rods, antennas, or rooftop solar collectors less than 10 feet high. Average grade is determined by dividing the perimeter of the structure into two or more equal sections, determining the proposed finished grade of each section, and calculating the average.
- Section 4.6 of the Zoning Ordinance prohibits construction of more than one principal building (not including an accessory dwelling unit or accessory structure) on an undivided lot unless any additional principal buildings (and any accessory buildings) are positioned such that the lot can be subdivided in accordance with all applicable Town and State regulations.

### III. Findings and Conclusions

#### A. Pomfret Zoning Ordinance

- Construction of the new single-family dwelling meets the applicable general standards in Section 4.1 of the Zoning Ordinance, including setbacks, maximum height and access to the public right-of-way.
- The height of the property was determined by using the average grade calculations and was noted to be 32 feet.
- Construction of the new single-family dwelling and detached garage will meet the applicable conditional use approval standards in Section 4.2 of the Zoning Ordinance. In particular, construction of the dwelling and detached garage will not meaningfully increase the demand on town services or facilities nor, create an undue adverse effect or change the character of the area.
- The standards listed in Section 4.4 and Article 5 of the Zoning Ordinance are not applicable to the work described in this Application.

- The ZBA concludes it is more likely than not the Applicant could subdivide their parcel such that the newly constructed dwelling would occupy a separate lot consistent with Town and State regulations, and as required by Section 4.6 of the Zoning Ordinance. The existing +/- 10.2 acres lot is more than quadruple the 2-acre minimum lot size. Moreover, it appears technically possible that separate water and driveway access could be added while still meeting setback and other applicable requirements for subdivided lots. Since the newly constructed dwelling is utilizing a shared well and existing driveway, should the Applicant subdivide the property a deeded right-of-way must be included to grant access to the new dwelling from Bartlett Brook Road and usage of the well unless Applicant so chooses to install a new well or create a new driveway access from Bartlett Brook Road.

#### **IV. Decision**

Based on information presented to the ZBA, the findings and conclusions described above, and subject to the conditions and limitations specified in Section V below, the ZBA makes the following decision:

- A. Conditional use approval is **granted** for the construction of the new single-family dwelling and detached garage and a permit is **authorized** for such use in such location

#### **V. Conditions and Limitations**

This Decision is subject to the following conditions and limitations:

- A. Construction of the single-family dwelling and detached garage and related work shall conform in all material respects with the Application materials including the Applicant's submissions, plans, written representations to the ZBA, and testimony as reflected in the Minutes, except as expressly modified herein. Any change to the foregoing shall require further review and approval by the ZBA under the then applicable regulations.
- B. The subdivision discussion in Section 3.A of this Decision is included solely for the purpose of evaluating the Application under Section 4.6 of the Zoning Ordinance. By acceptance of this Decision and the approval granted herein, Applicant for itself and its successors and assigns acknowledge and agrees that any future application to subdivide the Applicant's lot will be considered de novo and will be subject to all applicable regulations in effect at the time such application is made.
- C. This Decision applies only to the subject matter contained herein. The conformity of any other structures, uses or activities with the applicable zoning bylaws was not considered and is not addressed in this Decision.

\* \* \* \* \*

This Decision approved at Pomfret, Vermont, as of this 9<sup>th</sup> day of October, 2022.

Alan Blackmer  
Alan Blackmer, chair  
Zoning Board of Adjustment

ZBA members Alan Blackmer, Benjamin Brickner, Phil Dechert, and Shaun Pickett voted in the affirmative.

**NOTICE:** This Decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this Decision, pursuant to 24 V.S.A. 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.