

TOWN OF POMFRET
Zoning Board of Adjustment

Minutes and Memorandum of Decision

Permit Application: #ZP23-19
Property Address: 3207 Cloudland Road, Pomfret
Parcel No.: 3702
Parcel Size: 3.04 +/- acres

Property Owner: Dylan and Claire Keith
3207 Cloudland Road
Pomfret, Vermont

Applicant: Dylan and Claire Keith
3207 Cloudland Road
Pomfret, Vermont

I. Introduction and Procedural History

A. Application

Dylan and Claire Keith are seeking conditional use review under Section 4.6 of the Pomfret Zoning Ordinance to construct a new, single-family dwelling on a parcel with an existing principal building (a single-family dwelling).

The Zoning Permit Application ZP23-19 (the Application) dated May 1, 2023, was referred to the Zoning Board of Adjustment (ZBA) for conditional use review by the Zoning Administrator (ZA) on July 22, 2023 after deeming application complete on July 20, 2023. The Application and all supporting documents are on file with the ZA.

On July 26, 2023, notice of a public hearing was posted at the Town Clerk's Office, Teago General Store and the North Pomfret Post Office. On July 26, 2023, notice was published in *The Valley News*. The ZA timely notified the property abutters of the site visit and hearing.

B. Site Visit and Public Hearing

Following a site visit at the property on August 10, 2023, at 5:00 pm, the ZBA considered the Application at a public hearing on August 10, 2022 at 6:00 pm.

- Present at the site visit were all members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Susan Burgess, Shaun Pickett, and Seth Westbrook. Also present were Karen Hewitt Osnoe (ZA), Dylan Keith (Applicant), Claire Keith (Applicant), Cyrus Benoit (abutter), Bill Emmons, Nancy Doten and Fred Doten.

- Present at the hearing were all members of the ZBA: Alan Blackmer (Chair), Benjamin Brickner, Susan Burgess, Seth Westbrook and Shaun Pickett. Also present were Karen Hewitt Osnoe (ZA), Dylan Keith (Applicant), Claire Keith (Applicant), and Cyrus Benoit (abutter).
- The meeting was opened at 6:00 pm 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. Dylan Keith and Claire Keith were sworn in by Alan Blackmer (ZBA Chair). Cyrus Benoit was granted interested party status.
- Karen Hewitt Osnoe read into record the emails from Michael Doten, Gary Staples and Donald and Tracy Keith that were in support of the project.
- During the hearing the following testimony was heard from Dylan Keith and Claire Keith.
 - They would like to preserve the existing, circa 1795 historical dwelling for conversion to a long-term rental (more than 30 days). They are not considering short term rental situations (30 days or less).
 - The new single-family dwelling would reflect the character of the town. It would be a barn like structure of 35' x 50' with 3 bathrooms and 4-5 bedrooms to raise a family.
 - The existing house is approximately 1800 square feet. Original 1795 frame with additions. The house needs renovations due to mold, rot and vermiculite.
 - The value of the 1795 house would not be sufficient for the mortgage and the way the timber frame and HVAC in the existing building would not be aesthetically pleasing if existing house was downsized to conform to ADU requirements.
 - They would be installing a new well and septic for the new dwelling.

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.
- Placement of a second principal building on a single parcel is neither exempt from the Zoning Ordinance nor eligible for an administrative permit from the ZA. Therefore, conditional use approval by the ZBA is required.

- The request for approval comes within Section 4.6 of the Zoning Ordinance, which states that “[o]nly one principal building (not including an accessory dwelling unit or accessory structure) may be placed on a lot, unless any additional principal buildings (and any accessory buildings) are positioned such that the lot could be subdivided in accordance with all applicable Town and State regulations.” A principal building is one that is not an accessory dwelling unit or an accessory structure as defined by the Zoning Ordinance. Section 4.6 also provides that “[d]imensional requirements can be waived per Article 3” of the Zoning Ordinance.
- 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 of the Zoning Ordinance. Additional limitations in Section 4.4 apply to “Non-Conforming Structures” that do not conform to the Zoning Ordinance but are otherwise lawfully existing.
- Waivers from dimensional requirements of the Zoning Ordinance may be granted under certain circumstances. See Section 3.2. In all cases, it must be shown that the waiver is consistent with the Town Plan. In addition, it must be shown that the waiver satisfies at least one other criterion listed in Section 3.2.
- Variances from requirements of the Zoning Ordinance may be granted under limited and extraordinary circumstances. See Section 6.7.2. Before a variance may be granted, an applicant must show, among other things, that no reasonable use can be made of their property if applicable zoning requirements were strictly applied.

III. Findings and Conclusions

A. Pomfret Zoning Ordinance

- The applicants’ parcel is located in the Rural District where the minimum lot size is 2.0 acres. See Section 2.2.2.2 of the Zoning Ordinance. The applicants’ parcel is only +/- 3.04 acres. Therefore, it is not possible to position a second principal building on the applicants’ parcel such that the parcel could be subdivided in accordance with applicable regulations.
- The new, single-family dwelling contemplated by the applicants would not be a an accessory dwelling unit or an accessory structure as defined by the Zoning Ordinance and therefore would be a principal building.
- The ZBA finds that a waiver is not appropriate under the circumstances as the density of development that would be created by construction of the additional dwelling is not consistent with the Town Plan, nor is it consistent with existing development patterns of the zoning district or of neighboring properties.
- The ZBA finds that a variance is not appropriate under the circumstances as none

of the stringent criteria for a variance have been met. In particular the applicants are already able to make reasonable use of their property without a variance.


IV. Decision

Based on information presented to the ZBA, the findings and conclusions described above, the ZBA makes the following decision:

- A. Conditional use approval under Section 4.6 of the Zoning Ordinance to place a second principal building on a single lot is **denied**.

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This Decision approved at Pomfret, Vermont, as of this 4th day of September 2023, and signed by the chair of the Pomfret Zoning Board of Adjustment on its behalf pursuant to 24 V.S.A. 1141.



Alan Blackmer, chair
Zoning Board of Adjustment

ZBA members Alan Blackmer, Benjamin Brickner, Shaun Pickett, Susan Burgess and Seth Westbrook 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.