



Zoning Board of Adjustment

TOWN of SURRY, N.H.

Surry Town Hall ▪ 1 Village Road ▪ Surry, N H 03431

Board Members:

John Croteau, III, Chairman
John Berglund
Eric Eichner
Ken Maynard
Linda Bergevin, Alternate Secretary

MINUTES of PUBLIC HEARING

WEDNESDAY, JANUARY 29, 2025

Hearing of the Zoning Board of Adjustment was brought to order by **Chairman Croteau** at 7:00 PM

Board Members PRESENT: John Croteau, III, John Berglund, Eric Eichner, Ken Maynard.

Alternates PRESENT: Linda Bergevin, as Secretary.

Chairman Croteau apprised the Public attending that this was a Deliberative Session of the ZBA; no public input would be entertained during the session. Once the meeting concluded a time for questions/comments would be available for the Public.

AGENDA: Two items for this meeting of the ZBA members to review and discuss:

Stated Advisory:

1. Request for Variance: ADU - Kathleen V. "Katie" Anderson, 574 Old Walpole Road, Surry, NH
2. Deliberative session of the ZBA regarding Request and Motion for Reconsideration & Rehearing Pursuant to NH RSA 677:2

RE: Application for Variance for Lot #18, Map 4A, Case #93024 by said: The Tree Agents LLC ("Applicant")

Case Decided: November 13, 2024

Note: Request & Motion for Reconsideration and Motion for Reconsideration & Rehearing document dated December 9, 2024; submission by **The Tree Agents, LCC** by and through its attorneys: **Gottesman & Hollis, P.A.** by **Elizabeth M. Hartigan, Attorney at Law, attached**.

In the interest of time: Chairman Croteau advised the Board the first order of business would not be considered at this night's meeting (Request for Variance/ Anderson). He reviewed and returned the form to the applicant advising her to seek additional legal guidance to complete the Variance Request form. He would not accept the application as submitted since information was missing or incomplete. He informed the Board that the variance request was for a Second Access Dwelling Unit (ADU). The Andersons have one previously constructed ADU in their barn that had no prior variance request, which was too big in square footage and had septic issues. The 2nd ADU is too small and also will have septic issues which may mean the State of NH would have say for correction to this situation, as the septic goes to another adjacent property owned by the Applicant's daughter Ryan Chevalier.

Mrs. Anderson acknowledged she has an overflow of family for gatherings; wanting to have additional accommodation for that reason; also that her granddaughter wished to live there. She asked if she could have another blank form. Chairman Croteau said she could get access to the form online on the Town's website.

Mrs. Anderson thanked the Board and promised to return with a completed Request form.

- **Chairman Croteau** asked the Board to review the Minutes of the ZBA Public Hearing Wednesday, November 13, 2024. Motion to approve the Minutes as recorded.
- **Chairman** asked Board members to submitted updated email addresses to him for ease of distributing Minutes efficiency, for review prior to meetings, taking less time at the scheduled meetings. Board Members complied.
- **Chairman** asked the Board to review the Legal Consultation notes from Wednesday January 22, 2025 held at the offices of Bradley & Faulkner with Attorney for the Town of Surry, Gary J. Kinyon pursuant to upcoming matter of the Request submitted for Reconsideration & Rehearing by The Tree Agents, LLC.

Board Discussion: pro's and con's of granting the Appeal for Reconsideration & Rehearing are listed below:

Pro	Con
Starting from “scratch” allows more public testimony	Starting from “scratch” Public Notice: within 30 days; Scheduling may be impacted by Town Meeting or Planning Board Meeting.
Opportunity to build a stronger supported decision and/or correct any procedural “mistakes”	Extra time – dragging out the issue
Board would not be bound to its previous decision; impartially review again; perhaps coming to a different conclusion.	Applicant next step: Appeal to NH Supreme Court; need for Legal representation defending, additional costs
The same Plan would need to be presented with substantiating evidence by the Applicant	Good chance Court would rule against Town bypassing Town requirements on the development
Allows for more fact-based information for both Board and Applicant. Public testimony needs to address 5 criteria, impassioned testimony is not helpful & cannot be considered.	Court is under “pressure” to increase development in State of NH Other Town cases reviewed, shows very few “win” against the Court.

Board Member Eichner:

Motion: To grant the Request and Motion for Reconsideration & Rehearing Pursuant to NH RSA 677:2 for Applicant The Tree Agents, LLC, and its attorneys, and the Public, allowing for an opportunity for the Surry Board of Zoning and Adjustment to hear and review presented evidence in support or denial of the variance application, as submitted.

Seconded: Board Member Berglund.

Discussion. Need for parameters for Public input to the issues for that meeting. Suggestion that Abutters receive with their certified mailing of meeting notice the Five Fact Questions to be addressed as follows:

REASON FOR VARIANCE: Five Fact Questions need to be satisfied in Support of the Action of Granting:

1. Granting the variance would not be contrary to the public **interest**:
2. If the variance were granted, the **spirit** of the ordinance would be observed:
3. Granting the variance would do substantial **justice**:
4. If the variance were granted, the **values** of surrounding properties would not be diminished:
5. Any unnecessary **hardships**:

And have copies available for the Public at the hearing; this would inform the Public to make comments relative to the variance request appropriately.

**Chairman Croteau called for a Motion to Vote on the Stated Motion:
Motion made by Board Member Berglund, Seconded by Board Member Maynard.**

Vote: Unanimous by all Board Members.

Chairman Croteau asked the Planning Board members in attendance about The Town's Master Plan (now in review). Planning Board Members told him the Master Plan will have Goals established; then the Ordinances would be in Review. It's a process.

Board Member Eichner asked how soon the Rehearing needed to be scheduled. Answer was given as "a reasonable amount of time". **Attorney Kinyon** during the Legal Consult suggested scheduling within 30 days of the Board's decision.

Board discussed calendar options and being mindful of other meetings scheduled requiring the space and to eliminated potential conflict with the March Town Meeting and School Meeting.

Board members suggested **Thursday, February 27, 2025 7 PM or Wednesday, March 5th**

Board Member Berglund prefers the March date, if possible. **Chairman Croteau** said he would inform the Board as soon as possible, after speaking with legal representation for the Town.

Motion to Adjourn by Board Member Eichner. Seconded by Board Member Maynard.

Vote: Unanimous.

Chairman Croteau closed the Deliberative Session of the ZBA at 8:09 PM

Chairman Croteau Thanked the Public for attending and opened the Floor to residents and interested parties for questions and comments.

1. An Abutter stated he had not received the Meeting Notice. Chairman Croteau acknowledged he had been sent the letter but it had been returned by the Post Office. Abutter consented he had been away.
2. Public attendees reviewed Map on display for the Proposed Development of The Tree Agents.
3. Question about Cluster Housing; would require public water/septic infrastructure. Surry does not currently have this as an option in its zoning.

Adjourned: 8:17 PM

Respectfully Submitted:



Linda M. Bergevin, Alternate/Secretary

Attachment: REQUEST AND MOTION FOR RECONSIDERATION AND REHEARING PURSUANT TO NH RSA: 677:2 by THE TREE AGENTS, LLC & THEIR ATTORNEYS GOTTESMAN & HOLLIS