



**Town of Whitingham  
Zoning Board of Adjustment**

**MINUTES OF JUNE 14, 2021 PUBLIC HEARING**

**Attendees:**

ZBA members: Marshall Dix, Chair; Craig Aekus, Lyman Tefft, and Dana Dix

Zoning Administrator/ZBA Clerk: Gig Zboray.

Applicant: Chris Roberts, property owner, attended remotely.

Others: Ed Metcalfe, resident; Robert Fisher, town attorney; Brad Lackey, land surveyor.

**Call to Order. Additions or Changes to Agenda:**

Marshall Dix called the meeting to order at 7pm.

**Hearing of visitors (for concerns not on the agenda)**

None.

**Hearing – appeal of Zoning Administrator’s decision on Zoning Application W-8-21**

Open hearing by reading the warning Marshall Dix opened the hearing by reading the Hearing Warning.

Hear from all concerned Ed Metcalfe read a prepared statement noting his concerns about the approved application. Ms. Zboray responded to Mr. Metcalfe’s concern that according to Section 5.1.3 of the Zoning Regulation an “accessory use or structure” cannot be operated for gain by noting that the applicant applied for a single-family dwelling unit and an accessory apartment which differ from accessory use or structure.

Another concern of Mr. Metcalfe is that statute allows an accessory apartment appurtenant to a single-family dwelling. Attorney Fisher noted the reason for the state law regarding the accessory apartment is to allow more density on properties. According to the supreme court appurtenant does not mean physically attached.

Mr. Metcalfe also noted that statute allows an accessory apartment appurtenant to an “owner-occupied” single-family residence. Ms. Zboray questioned Mr. Roberts if he planned to use the single-family dwelling himself, Mr. Roberts responded yes. Mr. Fisher was unable to find any case law in Vermont that set a time limit on owner-occupied. “Residency” is not the same as “owner-occupied”.

Mr. Metcalfe questioned if both units can be rented out. Attorney Fisher responded that if the main dwelling were to be rented full-time, it would not qualify as owner-occupied, and the permit should be denied but if owner-occupied it could be rented out from time to time and suggested that the ZBA could set limitations as to how often.

Mr. Marshall Dix questioned if Mr. Roberts planned to rent the main house and the response was no.

Close hearing

At 7:15pm the hearing was closed, and the board entered deliberative session.

**Deliberative session**

After some discussion, a motion was made by Craig Aekus to uphold the Zoning Administrators original decision and that no conditions be attached, seconded by Marshall Dix, all in favor.

**Adjourn**

**Craig Aekus made a motion to adjourn at 7:27pm, seconded by Dana Dix, all in favor.**

Meeting adjourned at 7:27pm.

Respectfully submitted,

*Gig Zboray*  
ZBA Clerk