

Zoning Board of Adjustment *Town of Ferrisburgh, Vt.*

FINAL — Minutes for meeting of May 2, 2018; approved June 6, 2018.

Members present: Norm Smith (chair), Bob Beach, Rayne Herzog, Clark Hinsdale, Dave Mentzer, John Paul. **Member absent:** Mike Delaney.

Town official present: Bonnie Barnes, zoning administrator.

Visitors: Carol Allen, Aubrey Choquette, Roderick Cole, Lacy Couture, Barry Estabrook, Arabella Holzapfel, Rux Martin, Anna Charlebois Ouellette, Jim Purdy, Ken Villeneuve, Patrick Whitley.

Norm Smith, chair, called the meeting to order at 7 p.m.

Approval of minutes from April 4, 2018: John Paul made a motion to approve the minutes of April 4, 2018, as submitted. Dave Mentzer seconded. Bob Beach, Clark Hinsdale, Dave Mentzer, John Paul and Norm Smith voted in favor. Rayne Herzog abstained. **Motion approved.**

Approval of minutes from December 6, 2017: Dave Mentzer made a motion to approve the minutes of December 6, 2017, as submitted. Bob Beach seconded. Bob Beach, Dave Mentzer, John Paul and Norm Smith voted in favor. Clark Hinsdale and Rayne Herzog abstained. **Motion approved.**

HEARING No. 1

Application 18-015. Application by Town & Country Homes Inc. and Paulette McNary for a Conditional Use Permit for a modular and mobile home sales lot. The property is at 1908 Route 7, in the Rural Agricultural District (RA-5) and identified in Town of Ferrisburgh tax maps as parcel 15/01/06.1.

Norm Smith re-opened the hearing at 7:05 p.m. The hearing was continued from the meeting on April 4, 2018. Pat Whitley and Lacy Couture of Town & Country and Jim Purdy of Geomapping Associates were present to speak for the application.

Pat Whitley presented a new, more detailed site plan for the project, locating all the buildings and driveways, and read a letter he had submitted to the Zoning Board in support of the application. He noted that a mobile home park is a conditional use in the RA-5 district. He said the Town & Country project, which envisions an office, five modular homes arranged along a short driveway, and three mobile homes stored on the north end of the lot near the existing barn, would look similar, but would have less impact. None of the homes would be occupied, and none would be permanent, meaning no foundations would be required. Each building would have an electrical hookup so that interiors could be inspected, but otherwise lighting on the site would be limited to a sign out front and the office space.

Whitley said the area around the project site is mixed in character, with the Highway Commercial District (HC-2) across the street, the Industrial District (IND-2) just down the road, a church and a single-family home nearby, and a commercial solar array next door along with an antique business. He feels the RA-5 designation is not appropriate for the area.

He said the project would be residential in appearance, but without permanent residents, operating only from 8 a.m. to 5 p.m. Mondays through Saturdays. While the parcel is 17-plus acres, only 1.5 acres along the road would be developed, with the rest left as agricultural open land. There would be a low impact in terms of septic and water use, and the project will generate economic activity and provide jobs for local residents. He said the project would also see the renovation of the existing barn, which will be used for storage, and a general upgrade to the landscaping and esthetics.

Jim Purdy also provided a letter to the board, and said he agreed that the project should be approved. He cited the “Conditional Uses” for the RA-5 District, which include mobile home parks, and specifically No. 14 (C.14) allowing for the approval of “other similar uses” that are not specifically permitted but are of the same general character and will not be detrimental to other uses within the district. He noted that an update to an existing Act 250 permit will be required, which will address potential wetlands issues.

Addressing questions from board members, Whitley said any lighting would be downcast, and the sales lot would be maintained year-round, mowed in the summer and plowed in the winter. The back section, which will not be developed, will be hayed.

Public comment began with Anna Charlebois Ouellette, who lives across Route 7 from the property. She thought the project was a better fit for the area than a mobile home park, which is a conditional use in RA-5. She liked that most of the property would remain open space, and said it would be good to have the lot cleaned up and the barn restored. She noted that there was a lot of commercial development nearby.

Barry Estabrook and Rux Martin, residents of nearby Locust Lane, presented a letter to the board. At the meeting, Estabrook said the zoning bylaws are very clear, and that a sales lot for mobile homes is not a permitted or conditional use in RA-5. He said C.14 should not come into play since the sales lot is not of the same general character with other conditional uses. He said it was important to note that when the bylaws were drawn up, the town very explicitly allowed this kind of development in the HC-2 district, but not in RA-5. He also said there were at least three parcels for sale in the HC-2 within one mile of the proposed project that would be more appropriate for this kind of business, and would not contravene the existing bylaws. He also brought up issues with the impermeable surface that would be created by the project and how that would affect adjacent wetlands.

Aubrey Choquette, who lives on Tupper's Crossing, northwest of the property in question, said he agreed with much of what Barry Estabrook had said, and had no objection to new businesses or development in general. But he did not feel this project was a good fit with RA-5, and would constitute sprawl. He also noted that this use was not among the permitted or conditional uses allowed in the district. He said if you considered the rules for

subdivisions, requiring five acres for each home, the five modular homes and three mobile homes would require a 40-acre lot. He also said the project might look in some ways like a subdivision, but would not function as one, with houses coming and going, in various states of assembly or disassembly. He noted, as Estabrook had, that one modular home sat at the current Town & Country location wrapped in white plastic for at least three weeks. Choquette said the project was more appropriate for the HC-2 or Industrial (IND-2) districts.

Norm Smith said the board would need to discuss the issues among themselves in a deliberative session and would not be able to provide an answer tonight.

Board members asked the applicants if they would agree to formally set aside most of the parcel as open land, which might ameliorate the impact of the project. Whitley said he would be willing to do that. Applicants were also asked if the barn would be renovated in such a way that the character of the building was preserved. Whitley said that was their intention.

Bob Beach made a motion to close the public hearing at 7:55 p.m. Rayne Herzog seconded. All voted in favor. **Motion approved.**

Application 18-015. Application by Jeniah Johnson and Tom Sheeran for a Conditional Use Permit to add a 26-foot by 24-foot garage to their 13.9-acre parcel at 3078 Hawkins Road. The property is in both the Shoreland District (SD-2) and the Conservation District (CON-25) and identified in Town of Ferrisburgh tax maps as parcel 04/01/28.

Norm Smith opened the hearing at 7:55 p.m. Roderick Cole was present to speak for the application, and had a letter from Jeniah Johnson and Tom Sheeran authorizing him to do so.

Cole said the Zoning Board had previously approved an application for a breezeway/garage combination, which would have been attached to the existing house on the property, but that this project had not been built. He said this new application is for a stand-alone garage just south of the house and west of the driveway. It is outside the 250-foot protected zone created by the Shoreland Protection Act. The garage will be 31 feet from the boundary with state lands just to the west, part of Kingsland Bay State Park, satisfying the 25-foot setback required in the town's zoning bylaws, for both the SD-2 and CON-25 districts.

He said the garage project would use materials that match the existing house, including a standing-seam metal roof and cedar siding. Any lighting would be downcast.

Dave Mentzer made a motion to close the public hearing at 8:07 p.m. Rayne Herzog seconded. All voted in favor. **Motion approved.** Clark Hinsdale made a motion to approve the application as submitted. Rayne Herzog seconded. All voted in favor. **Motion approved.**

Other business

Zoning task force: Arabella Holzapfel, a member of the Planning Commission, is working with Bonnie Barnes on the process of revising the town's zoning bylaws. They are forming a task force, with two subgroups, one tackling the nitty-gritty of rewriting the bylaws, and the other concentrating on outreach to the community. The hope is that with the two groups working in parallel, while keeping in close touch with each other, the town can do a good job, more quickly, than if one group was doing it all on its own. Barnes said they were aiming, somewhat optimistically, to complete the process within a year. She said she was planning to head up the revisions subgroup while Holzapfel handled the outreach.

Bob Beach, a Zoning Board member who is also chair of the Planning Commission, said the town has reached out to Brandy Saxton, a land-use planner with whom the town has worked in the past. He said she would be sending the town a proposal for looking at Ferrisburgh's new town plan and its existing zoning bylaws and helping the town figure out what works and what doesn't. Beach said the town has \$10,000 set aside for this work in this year's budget, and is being asked to include additional money for the next fiscal year.

There was a brief discussion of possible members for the zoning rewrite task force. Dave Mentzer and Norm Smith both agreed to represent the Zoning Board. Holzapfel and Barnes said they would get together to discuss the right number of task force members and other possible members, and would look into scheduling the first meeting of the group.

Bonnie Barnes' schedule: Barnes said she would be on vacation from June 3-24 and would miss both the Zoning Board and Planning Commission meetings that month. She said Pam Cousino, assistant town clerk and treasurer, would be the acting zoning administrator.

Zoning violation appealed: Barnes said she had recently determined that Sheila McGregor of Sand Road was in violation of the zoning bylaws, since she had been asked to apply for a Conditional Use Permit for a home business but had failed to do so by the deadline she was given. McGregor has run an animal rescue operation for many years out of her home on Sand Road, but has never had a permit for a home business, according to town records. McGregor is appealing the decision, saying that since she has been operating the business for more than 15 years and was never asked to apply for a permit, she is "grandfathered" in, and does not need to apply for a permit now.

Bonnie Barnes said the Zoning Board would need to hear the appeal. She said she would ask Gloria Warden, town clerk, to send out a warning for a special meeting of the Zoning Board of Adjustment on May 23, 2018, at 6:30 p.m.

Clark Hinsdale made a motion to go into deliberative session at 8:40 p.m. Bob Beach seconded. All voted in favor. **Motion approved.**

— Respectfully submitted,

Tim Etchells