

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

FINAL – Minutes for meeting of September 4, 2019; approved October 2, 2019.

**Members present:** Norm Smith (chair), Bob Beach, Dave Mentzer, Diane Nadon, John Paul, Katie Quinn. **Absent:** Mike Delaney.

**Town official present:** Bonnie Barnes, zoning administrator.

**Visitors:** Debbie Allen, Terry Allen, Linda Bushey, Roderick Cole, Lydia Hibbard, Lois Higbee, John Laberge, Barbara Lavoie, Victor Lavoie, Ben Lessard, Heidi Lessard, Dennis Mack, Maria Mack, Jack Poirier II, Ryan Sheehan, Craig Smith, Lorie Soter, Melissa Thayer.

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

Bob Beach made a motion to approve the minutes of the meeting on August 7, 2019, as submitted. Dave Mentzer seconded. Bob Beach, Dave Mentzer, Diane Nadon, Katie Quinn, and Norm Smith voted in favor. John Paul abstained. **Motion approved.**

**Application No. 19-067 by Debbie and Terry Allen for a Conditional Use Permit to operate a bed and breakfast at their home. The lot is at 235 Primrose Lane in the Rural Agricultural District (RA-5) and listed in Town of Ferrisburgh Tax Maps as parcel 11/01/17.3.**

Norm Smith opened the hearing at 7:05 p.m. Debbie and Terry Allen were present to speak for the application. They told the board they have been renting out rooms at their home, and would like to get a Conditional Use Permit to continue doing so. Debbie Allen said they had registered with the state, and were using Airbnb, but had not known that a town permit was required. They have a professionally-designed septic system and a state wastewater permit for a three-bedroom home. Their home has three bedrooms, one on the ground floor, one in the basement and one in an attached garage, with the garage room the one being used for short-term rentals. They also have a detached cabin, which has what they called an electric toilet that incinerates waste. The cabin also has a sink and an outdoor shower, both of which produce gray water that is directed outside the cabin, and not captured in the existing septic system.

The Allens now realize they need a state wastewater permit for the cabin if they are going to continue using it for short-term rentals. They intend to investigate the cost of installing a new septic system and then decide whether to continue using the cabin.

Neighboring property owner Jack Poirier II said his biggest complaint about the short-term rental operation is the noise from barking dogs, both the two owned by the Allens and those brought by guests. He also said he was concerned about the gray water from the cabin running into adjacent wetlands.

The Allens said they had rented out their garage bedroom six or eight times over the past year and a few of the renters had brought their dogs. They said they had rented out the

cabin eight or 10 times, and all the renters had one or two dogs. They said the rentals were mostly for a weekend at a time. They said there are fenced areas for the dogs, both theirs and those belonging to renters.

There was a brief discussion during which board members asked about the septic and noise issues. The Allens said their engineer had told them they need a new wastewater permit for the cabin. In an answer to a question, the Allens said there is ample parking at both the house and cabin.

Diane Nadon made a motion to close the public hearing at 7:27 p.m. Bob Beach seconded. All voted in favor. **Motion approved.** Norm Smith said the board would deliberate later and reach a decision on the application.

**Application No. 19-069 by Dennis and Maria Mack for a Conditional Use Permit to add a deck to the lakeshore side of their home. The property is at 461 Sunset Lane in the Shoreland District (SD-2) and listed in Town of Ferrisburgh Tax Maps as parcel 22/20/02.**

Norm Smith opened the hearing at 7:28 p.m. Dennis and Maria Mack were present to speak for the application. They plan to add a 12-foot by 30-foot deck to the lakeshore side of their home. Because it will be an open deck with space between the decking boards, they have been told by the state they do not need a shoreland permit, since it does not add to the impervious surface on the parcel. The deck will not have a roof, though it will begin under an existing four-foot overhang on the house. Dennis Mack said the footings for the deck would be pinned to the ledge. The Macks said any lighting would be added to the side of the house adjoining the deck.

The deck would follow the line of the existing house, and not be any closer to the neighbor's property, but the existing building is already non-conforming in that it's closer to the property line than allowed in the SD-2 zoning district. Because this deck would be extending a footprint that is non-conforming, board members said, it would need a waiver from the dimensional standards for SD-2.

John Paul made a motion to close the public hearing at 7:37 p.m. Katie Quinn seconded. All voted in favor. **Motion approved.**

Dave Mentzer made a motion to approve the application as submitted, granting the Conditional Use Permit and a waiver to the dimensional standards, with the following conditions: that the deck not extend farther than the existing house into the sideyard setback, and that any new lighting be soffit-mounted or use full cutoff fixtures. Katie Quinn seconded. All votee in favor. **Motion approved.**

**Application No. 19-073 by Jeniah Johnson and Tom Sheeran for a Conditional Use Permit to demolish and reconstruct a garage. The property is at 3078 Hawkins Road and is partly in the Shoreland District (SD-2) and partly in the Conservation District (CON-25) and listed on the Town of Ferrisburgh Tax Maps as parcel 14/01/28.**

Norm Smith opened the hearing at 7:40 p.m. Roderick Cole, contractor, was present to speak for the application, with a letter from Johnson and Sheeran allowing him to represent them at the hearing. He said the plan is to either renovate the existing garage or tear it down and put up a new one on the same footprint. He said he had done extensive work on the main house on the property over the past few years. And he noted that the owners had received a permit in the past to take down the existing garage and put up a new one just to the west, on the other side of the driveway. But that never happened, so they were back to request a permit for a new or renovated two-bay garage with attic storage on the current 26-foot by 24-foot footprint. He said if they do take down the existing garage, which has a saltbox design, the new garage would likely have the gable ends east and west, rather than north and south, and be the same height.

Dave Mentzer made a motion to close the hearing at 7:47 p.m. John Paul seconded. All voted in favor. **Motion approved.** Dave Mentzer made a motion to approve the application as submitted. John Paul seconded. All voted in favor. **Motion approved.**

**Appeal of the approval by the zoning administrator of Application No. 19-058 by Ben and Heidi Lessard. The Lessards had received a Conditional Use Permit on July 19, 2019, to build a 20-foot by 40-foot bow-roof shed. Their property is at 149 Piney Woods Road in the Rural Agricultural District (RA-5) and listed on the Town of Ferrisburgh Tax Maps as parcel 05/01/44.151. The permit was appealed on July 24, 2019.**

Norm Smith opened the appeal hearing at 7:50 p.m. Applicants Ben and Heidi Lessard were present, as were neighbors Lori Soter and Lois Higbee, who are appealing the permit. Lori Soter said their primary issue with the permit was that the location of the shed intrudes on a deeded right-of-way across the Lessard property. Several maps and surveys of the property were presented by the applicants and the appellants, and board members said they were having trouble figuring out where the right-of-way was located.

Norm Smith said it was hard for the board to get a clear understanding of the situation without visiting the site. Dave Mentzer said it was important to know where the right-of-way is before determining where or whether the shed can be built.

Norm Smith said he felt the hearing should be continued and the board should make a site visit, and that the proposed location of the shed should be staked out, marking all four corners. John Paul made a motion to recess the hearing, which will be continued at the next scheduled meeting on October 2, 2019, following a site visit by board members scheduled for 2 p.m. on September 15, 2019. Diane Nadon seconded. All voted in favor. **Motion approved.**

### **Other business**

John Laberge appeared to address issues about the use of his property on Sand Road, along with Ryan Sheehan, who bases his excavating business there. Laberge recently constructed a combination two-bay garage and sugar house. The project was approved in July 2018, deemed to be agriculturally exempt because it was in support of a sugaring operation.

Neighbors are contending the property is being used as a contractor's yard, with the storage of heavy equipment and materials, unrelated to agriculture.

John Laberge said he has consulted his attorney and filled out a worksheet developed by the Department of Agriculture to determine if the uses of the property are agriculturally exempt. He is expecting to receive a letter from the department shortly.

He and Ryan Sheehan said the sugar house is going to be used this coming year for sugaring, with upgraded equipment. Sheehan did say he stores a dump truck, two excavators and a skidsteer at the site. Norm Smith said that if the property is being used as a contractor's yard, with the storage of heavy equipment and materials, then it may not be agriculturally exempt. He said board members weren't in a position to debate the issue at this point, but would wait until Laberge receives his letter from the Agriculture Department, and take it from there. Laberge suggested that others in town were storing construction equipment on their property and wondered why he was being singled out. Board members said it was because neighbors had complained.

Craig Brown appeared before the board to discuss his desire to get a permit to put up a garage on his property on Basin Harbor Road. He said he wants to sell the property and could do so more easily if he was able to add a garage. Bonnie Barnes and board members said the half-acre parcel on Otter Creek was problematic for further development, since it's in both the Conservation District and a flood plain. Norm Smith said he sensed skepticism among board members; Bonnie Barnes suggested Brown could look at state and local regulations, which have changed significantly since Brown was last allowed to make changes to the lot. Smith said he didn't want to get in the business of providing advisory opinions, adding that Brown was welcome to file an application.

Bonnie Barnes said AT&T has given the town a 60-day advance notice that it wants to put up a 140-foot tall cell tower on the Van De Weert farm on Route 7. She said the Zoning Board could potentially have a role in the approval process.

Barnes also said the MacDonald's at the service station on Route 7 wants to add an additional sign to its building. There is now a menu board for the drive-through portion and it wants to replace this with a new menu board and add another sign, called a preview board. The two signs would, in total, be about the same size as the current sign. Barnes and board members said the signage issue was specifically addressed in a decision by the Vermont Superior Court, Environmental Division, that allowed the construction of the center. Board members agreed that the restaurant should come to the Zoning Board and request a Conditional Use Permit for the new signs, with the board determining whether it felt the signs met the conditions in the judgment order.

Bonnie Barnes reported on a property owner who is operating an Airbnb without a permit, which the town has determined is required for these short-term rentals. She said she was told by the landowner that the rental operation would be shutting down, and so had not pursued the issue, but has now learned that the Airbnb rental is booked through October. Board members said the property owner should be required to apply for a permit.

Barnes noted a neighboring property owner had complained that a seasonal camp was leaving its outdoor floodlights on all winter, and she was uncertain how to address the issue using the town's zoning regulations. Board members said the use of full cutoff light fixtures, which direct light down, was being required of nearly every development these days, and the camp owner should be required to replace the existing outdoor lighting with fixtures meeting that criteria.

The board then began a discussion of the Allen permit application discussed earlier in the meeting. Board members were in agreement that the Allens would need to get a wastewater permit if they were going to continue to use the cabin as a short-term rental.

Dave Mentzer made a motion to approve the use of the three-bedroom house as a tourist home, for short-term rentals, but requiring that the use of the separate cabin cease immediately due to the lack of a state wastewater permit. Diane Nadon seconded. All voted in favor. **Motion approved.**

Diane Nadon made a motion to adjourn the meeting at 9:30 p.m. John Paul seconded. All voted in favor. **Motion approved.**

— Respectfully submitted,

Tim Etchells