

Minutes Approved on: Feb. 2, 2022

***Zoning Board of Adjustment
Town of Ferrisburgh, VT***

Minutes for meeting of January 5, 2022

Note: This meeting was conducted remotely and in-person at the Town Hall. Some participants joined the meeting through a Zoom online meeting.

Members present: Norm Smith (Chair), Dave Metzner (Vice Chair) Diane Nadon, Katie Quinn, John Paul, Mike Delaney, Bob Beach **Members absent:** None

Town official present: Bonnie Barnes, Zoning Administrator, Robyn King, Minute Taker

Participants present: Kevin Sullivan, Liam Murphy, Esq., Mike Redmond

Approval of minutes from December 1 Meeting. Norm Smith called the meeting to order at 7:00 pm and asked for a review of the minutes. John Paul explained that there was a missing line on the vote for the application regarding the storage shed and it was noted that there would be a revision that showed that the Board showed unanimous approval for the application. ***With those edits incorporated, John Paul moved to approve the minutes, which was seconded by Dave Mentzer and the motion passed with Dave Mentzer abstaining.***

Application No. 21-178 (Sullivan) for improvements to existing quarry; property ID #13/01/59.1; 2078 Jersey Street LLC; Rural Agricultural (RA-5) district; conditional use. Kevin Sullivan introduced the application and noted that on the map displayed his intent was to get rid of roadways marked in pink and add roadways that are marked in blue. Also, on the map displayed were roadways highlighted in white that are pre-existing although without a permit. Kevin Sullivan explained that there was a curb cut permit that had been obtained, and on the map displayed, the quarry was in the northern part of the map.

Board members asked for clarification on the map elements, and the applicant explained that there used to be a trailer on site where one of the roadways ended, and that the planted buffer shown on the map was put in for a neighboring property. Dave Mentzer asked if there has been an increase in the amount of stone removed, and the applicant confirmed that there can be increases at times. Dave Mentzer asked if the stone was being sold for local landscaping efforts and Mr. Sullivan noted that the stone was for his own personal use in his landscaping business. Norm Smith confirmed that people offsite can't buy rock from these operations and asked about the number of trips per day. Kevin Sullivan noted that there was not an average because it was a seasonal demand.

Bob Beach asked if the residence listed on the map marked 2078 was his residence, and Mr. Sullivan answered affirmatively. It was confirmed through discussion that there was a driveway that was shared with a neighbor marked on the map that would continue to be used, and part of

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the proposal was to have that access point no longer be affiliated with Mr. Sullivan's routes. Bob Beach noted that the proposal was sensible in that there would be more direct access onto the existing quarry road which runs alongside the planted buffer. Bob Beach asked how many yards of stone were removed on an annual basis, and Mr. Sullivan noted he was not exactly sure.

Mike Redmond, an abutting neighbor noted that the property had not been a quarry before it was purchased by Mr. Sullivan, and he had been a neighbor to the property since 1989. Mr. Redmond explained that one of the roadways displayed in the application was put in for access to a trailer that was illegally placed on the property and had to be removed. Mr. Redmond explained that his issue with the proposal is that the applicant was not interested in moving the road to the south so that it would create less of a disturbance to his property. Mr. Redmond also pointed out that the lot does not have adequate frontage. Mr. Redmond noted out some of the ways that the property was used that were agitating to him as a neighbor and explained some of the history of the site, including some of the parts marked as roadways that were old trails for sugaring. Mr. Redmond pointed out that there were alternatives to what was proposed that would be less of a disturbance.

Dave Mentzer noted that the access in the northern part of the property appeared to be 40 feet from the property line and asked about how the roadway in the north impacted Mr. Redmond. Mr. Redmond noted his house was adjacent to this roadway and he used to keep animals which were aggravated by the dust and that if the roadway was moved farther away there would be less disturbance. Mr. Redmond pointed out that Mr. Sullivan may not want to move the roadway southerly as it may disturb the tenants who live in the residential structure. Mr. Redmond noted that the application did not meet the current zoning regulations overall given the lack of frontage as compared against the minimum requirements and the fact that the application does not address that the quarry operations have not been grandfathered in. After a question from Norm Smith, Mr. Redmond explained that the current and proposed roadways are too close and reiterated that the proposal did not meet current zoning regulations given that it did not have adequate frontage, that the operations of the quarry were not grandfathered in, and that quarries were not allowed in the RA-5 District.

Norm Smith asked what a reasonable arrangement might be and Mr. Redmond explained that Mr. Sullivan had continued operations even when asked to cease and he is not amenable for there to be ongoing quarry operations on the site. Mr. Redmond explained it was his interpretation that this was a new quarry which is not consistent with the zoning regulations and also confirmed that the property was purchased two years ago after not being used as a quarry for over fifteen years.

Attorney Liam Murphy noted that during the hearing on the matter back in September, with a decision being issued in October, the Board found that there was an existing quarry. Attorney Murphy noted that this application there was a focus on placing a road to a pre-existing non-conforming use. Attorney Murphy explained that in terms of the roadway, the placement was intentional so that there would be conformance with necessary setbacks from wetland areas

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which were in compliance with state wetland regulations. Mr. Redmond noted that the current placement was not consistent with necessary setbacks from neighboring properties.

Norm Smith asked if the driveway could go past the house on the side and the existing driveway and parking at the south end, which Mr. Sullivan noted this could be an option. Attorney Murphy noted that with this configuration, the roadway would be closer to the house in the south than to the neighbor in the north and that this would be closer to the pond. Bob Beach asked if the pond was being shown on the state wetlands map and Attorney Murphy presented the state wetland delineation with the pond being on the map. There was discussion on whether or not the roadway could be reconfigured to be closer to the existing house and garage other than it may be in conflict with uses other than quarrying. Mr. Redmond noted that he did not think that the pond should be considered as a designated wetland given the origins of the pond and asked if the wetland takes precedence over neighboring property issues.

Mr. Redmond explained that some of the features of the map were inconsistent with the current state in that some of what's being pointed to as existing roadways are not existing roadways. Norm Smith asked if there were ways that the operations may be less of a disturbance, such as time limits for use, explaining that there was an interpretation that that this is not a new quarry. Mr. Redmond noted that the roadway was put in illegally and that he had reviewed a permit for a conditional use for continuing to quarry on an existing quarry. Norm Smith pointed out that the application was for an access road to an existing quarry. Mr. Redmond noted he did not consider this to be an existing quarry given that it wasn't a quarry until the road was put in and that the placement of the road was a disturbance.

Dave Mentzer noted he would like to do a site visit, which Katie Quinn was in agreeance with. The Board members agreed to conduct a site visit on the 22nd of January at 10 am. ***Dave Mentzer made a motion to continue the hearing until the next meeting which was seconded by Katie Quinn and the motion passed unanimously.***

Mr. Sullivan noted that he would like to understand how he can use his property in the meantime while deliberations are made. Dave Mentzer clarified that he cannot expand his operation by extracting stone and driving and can also not put in a new driveway. Mr. Sullivan asked if he could continue to improve the site by clearing trees for firewood and removing fence posts and other activities of that nature. Dave Mentzer noted that it's extraction that is under consideration, not those other activities.

Other Business

Bonnie Barnes explained that there is an application in front of the Planning Commission that is a large subdivision that was under sketch plan review in December with another meeting on the matter scheduled for January. Bonnie Barnes noted that there may be a need for joint meetings between the Boards with a liaison. It was noted that the Planning Commission meeting was planned for January 19th on the matter.

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There was discussion of a replacement for the current Zoning Administrator, and developments that had been made in promoting the position.

There being no further matters for discussion, Diane Nadon made a motion to adjourn the meeting, which was seconded by Dave Mentzer and the motion passed unanimously. The meeting was adjourned at 7:52 pm.