

Zoning Board of Adjustment

Town of Ferrisburgh, Vt.

APPROVED – Minutes for meeting of February 1, 2017

Members present: Charlene Stavenow (chair), Bob Beach, Mike Delaney, Rayne Herzog, Dave Mentzer, John Paul, Norm Smith, Mike Delaney.

Visitors: Debbie Allen, Terry Allen, Lauren Arms, Kat Clear, Jon Erickson, Patricia Erickson, Julie Gramling, Rolf Humburg, Joan Humiston, Fritz Langrock, Adam Nilson, Gina Nilson, Robert Scharf, Nick Thomann, Anne Vincent, Bill Vincent.

Charlene Stavenow, chair, opened the meeting at 7 p.m.

Approval of minutes from December 7, 2016: Bob Beach made a motion to approve the minutes from December 7, 2016, with one correction: In the write-up on Application 15-025, Dave Mentzer was quoted as saying, in a motion, that the application should be approved “with the assumption that additional lighting would be downcast.” It should have read “with the condition.” John Paul seconded. Bob Beach, Rayne Herzog, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow voted in favor. Mike Delaney abstained. **Motion approved.** Board members also asked that lot sizes be checked for two of the applications acted on at the December 7 meeting, and it was determined that the lot sizes in the minutes matched those on the town’s parcel list.

HEARING No. 1

Application 16-148. Application by Richard Benson for a Conditional Use Permit to open a retail grocery, deli and gift shop. The 2.2-acre parcel is located at 3153 Route 7 (former site of the bake shop) in the Highway Commercial 2-Acre (HC-2) District, identified in the Town of Ferrisburgh tax maps as parcel 23/20/04.

Charlene Stavenow opened the hearing at 7:05 p.m. Neither Richard Benson nor anyone else was present to speak for the application. The hearing was recessed until the board’s next meeting, scheduled for March 1, 2017.

HEARING No. 2

Application 16-153. Application by Atlas Gun Works for a Conditional Use Permit to operate a firearms manufacturing shop in an existing building at 7056 Route 7 in the HC-2 District. The 6.6-acre parcel, owned by D.H. Cameron Property LLC, is identified in the Town of Ferrisburgh tax maps as parcel 05/01/11.1.

Charlene Stavenow opened the hearing at 7:15 p.m. Adam Nilson and Gina Nilson of Atlas Gun Works were present to speak for the application. The company builds high-end custom target-shooting handguns, mostly for international competitions, sold to clients around the world. They expect to build about 100 pistols this year. The business is now based in Charlotte and

will be relocating to Ferrisburgh. The plan is to use about half of the space in an existing 4,800-square-foot structure on the site, which is owned by Don Cameron. The Nilsons expect to have three to five people working in the space. The business involves minimal foot traffic, and there is no need for additional parking.

The public hearing was closed at 7:22 p.m. Norm Smith made a motion to approve the application as submitted. Dave Mentzer seconded. All voted in favor. **Motion approved.**

HEARING No. 3

Application 16-158. Application by Brian Farrell for a Conditional Use Permit to add a permeable deck to an existing house, plus raise the roof to accommodate a family room and porch, and replace a septic processor. The property is located at 27 Lucia Lane on Long Point in the Shoreland 2-Acre (SD-2) District and is identified in the Town of Ferrisburgh tax maps as parcel 99/99/99.037.

Charlene Stavenow opened the hearing at 7:25 p.m. Dan Berry, builder, was present to speak for the application. He described the project as adding a permeable deck to an existing camp, adding a second floor to part of the building to create a family room and an upstairs porch, and replacing an existing septic system. Charlene Stavenow said the Long Point Corporation had signed off on the project, and a state shoreland permit was not required. Board members asked about finish materials and Berry said the siding will be upgraded, and the roof would use asphalt shingles. Some windows would also be replaced. Any new lighting would be downcast, he said.

The public hearing was closed at 7:30 p.m. Bob Beach made a motion to approve the application as submitted. Rayne Herzog seconded. All voted in favor. **Motion approved.**

HEARING No. 4

Appeal of Permit 16-155. Katherine Clear and Rolf Humburg are appealing a building permit granted to Debbie and Terry Allen to construct a 1,344-square-foot house with an attached two-car garage on a lot located on Shellhouse Mountain Road. The 24.02-acre parcel is in the Rural Agricultural 5-Acre (RA-5) District and is identified in the Town of Ferrisburgh tax maps as parcel 11/01/17.

Charlene Stavenow opened the hearing at 7:35 p.m. Katherine Clear and Rolf Humburg, neighboring property owners, and their attorney, Fritz Langrock, were present to speak for the appeal. They said that since the building permit had been issued on December 1, 2016, by Ken Wheeling, zoning administrator, it had been determined that the subdivision of the property creating the 24.02-acre building lot identified a 50-foot right-of-way (ROW) to the parcel, which does not have any road frontage. Ferrisburgh's zoning bylaws require that a building lot have either road frontage or a minimum 60-foot ROW. The town's Conservation

Commission was also investigating, with the help of the state, the existence of wetlands on the building lot.

Property owners Terry and Debbie Allen and their attorney, Robert Scharf, pointed out that the Allens had received approval for the subdivision from the Planning Commission and had applied for and received a building permit from the zoning administrator. Zoning Board members said that the subdivision approval specifically mentions a 50-foot ROW, which does not meet the town's zoning requirements. Bob Beach, a member of both the Planning Commission and the Zoning Board, said it was puzzling, since Planning Commission members obviously know the town's ROW requirements.

Board members discussed the best way forward under the circumstances, and the consensus that emerged was that the board could uphold the appeal and the Allens could then re-apply for a building permit, seeking a variance on the right-of-way issue.

Mike Delaney made a motion to close the hearing at 8:14 p.m. Dave Mentzer seconded. Mike Delaney, Rayne Herzog, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow voted in favor. Bob Beach abstained. **Motion approved.**

Norm Smith made a motion to uphold the appeal because of the 50-foot ROW. Dave Mentzer seconded. Mike Delaney, Rayne Herzog, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow voted in favor. Bob Beach abstained. **Motion approved.**

Charlene Stavenow suggested that the appellants and the applicants and their respective attorneys communicate with one another going forward, and hoped that the new building permit application could be taken up at the board's next meeting.

HEARING No. 5

Application 16-149. Application by JSCL LLC c/o Sue DeVos for an 8,000-square-foot commercial building to serve a trucking business with one fulltime and six parttime employees and an outdoor truck wash area. The 9-acre lot is located on the north side of Tupper's Crossing in the Industrial 2-Acre District and is identified in the Town of Ferrisburgh tax maps as parcel 10/01/58.2.

Charlene Stavenow said that this hearing, opened on December 7, 2016, and recessed until February 1, 2017, would be recessed again at the applicants' request until the March meeting. She said the recess would probably last until the April meeting, and possibly till May.

HEARING No. 6

Appeal of Permit 16-142. Neighboring property owners are appealing the granting of a building permit to Jon and Patricia Erickson to build a seven-stall stable, with a one-bedroom apartment above, on their property. The 30-acre parcel is in the RA-5 District and is

identified in the Town of Ferrisburgh tax maps as parcel 16/01/43.2.

Charlene Stavenow opened the hearing at 8:21 p.m. Julie Gramling, Anne Vincent and Bill Vincent, neighboring property owners, were present to speak for the appeal. Neighboring property owner Nick Thomann also spoke about his concerns with the plans for the property. Jon and Patricia Erickson, the property owners, were also present. Charlene Stavenow said she and zoning administrator Ken Wheeling had been to the property and made some measurements to confirm that the proposed 36-foot by 50-foot barn/stable with apartment above was staked out in the correct location. She said some of the other board members had also made site visits.

The neighbors felt that the siting of the buildings was detrimental to their views, and worried that traffic issues might arise if trucks and horse trailers were using the road more frequently.

The Ericksons said they are starting up a horse farm, on land that is zoned agricultural, and have followed the rules, receiving town permits for all of the structures they've put up, including the stable and apartment combination. They volunteered to add trees and/or hedgerows to help screen the buildings from view if neighbors thought that would be helpful.

Board members pointed out that there are limits to what municipal authorities can do regarding agricultural projects, which are primarily governed by state laws. The major concern for the town is that setback requirements are observed, and they have been for this project, board members said. The neighbors said they had not understood how little authority the town had over farm projects, and wished they had been given more information on this by the town's zoning administrator. Board members referred the appellants to state regulations that limit the impact of municipal bylaws on agricultural projects.

Norm Smith made a motion to close the public hearing at 9:02 p.m. Bob Beach seconded. All voted in favor. **Motion approved.**

Norm Smith made a motion to deny the appeal, subject to the condition that the barn-apartment combination be constructed in the position currently staked, and as shown on the map submitted by the Ericksons. Mike Delaney seconded. All voted in favor. **Motion approved.**

Norm Smith made a motion to adjourn the meeting at 9:10 p.m. John Paul seconded. All voted in favor. **Motion approved.**

— Respectfully submitted,

Tim Etchells