

Minutes Approved on: March 2, 2022

Zoning Board of Adjustment
Town of Ferrisburgh, VT

Minutes for meeting of February 2, 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 Mentzer (Vice Chair) Diane Nadon, Katie Quinn, John Paul, Mike Delaney. **Members absent:** Bob Beach

Town official present: Bonnie Barnes, Zoning Administrator, Robyn King, Minute Taker, Karen Pettersen, Conservation Commission

Participants present: Dan Berry, Kevin Sullivan, Mike Redmond, Elizabeth Filosa, Esq., Rick Ebel, Donna Ebel.

Approval of minutes from January 5 Meeting. Norm Smith called the meeting to order at 7:00 pm and asked for a review of the minutes. Dave Mentzer noted that he had abstained from approving the meeting minutes at the last meeting and that the address of Mr. Sullivan needed fixing in one location. ***With the corrections, Dave Mentzer made a motion to approve the minutes, which was seconded by Katie Quinn.***

Application No. 21-188 (Orben) for second story addition to existing camp; property ID #99/99/99.023; 200 Shore Road; Shoreland (SD-2) district; conditional use.

Mr. Berry was present to represent the applicant and explained that there would be a second story addition with no exterior lighting and in the same original footprint as the existing camp. There was a discussion of the drawings, and Dave Mentzer noted that there was a letter from the Long Point Association in the files. Dave Mentzer asked if the chimney would be rebuilt, which was confirmed.

There being no questions from the public, ***Dave Mentzer made a motion to close the public hearing, which was seconded by Mike Delaney. Unanimously approved as submitted. The public hearing was closed at 7:06 pm.***

Application No. 21-178 (Sullivan) for improvements to existing quarry; property ID #13/01/59.1; 2078 Jersey Street; Rural Agricultural (RA-5) district; conditional use.

It was noted that the site visit had taken place, with Katie Quinn and Dave Mentzer not being present but visiting the site independently. Mike Delaney noted there was discussion at the site visit about moving the driveway with consideration of the proximity to the pond, but there were some other options around placement. It was noted that the Conservation Commission minutes had been provided to Board members that day for review.

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Mike Delaney asked that the material removed was for the business and not for commercial purposes, and Mr. Kevin Sullivan confirmed this. Diane Nadon noted that it was expected that any stone cutting would occur off-site. Mike Delaney confirmed that any blasting of stone would be mechanical.

Dave Mentzer asked at the time of purchase, how long it had been before stone had been extracted. Elizabeth Filosa, an attorney representing Mr. Sullivan, noted that the decision issued in October addressed the scope of the use of the land for quarrying operations and it was their opinion that historical use of the quarry was not of note given that this had been addressed previously. Norm Smith explained that there was disagreement over this interpretation. Dave Mentzer explained that in the first decision, the Board operated under an assumption that the quarry had been operational within a year, which may not have been accurate.

Dave Mentzer re-iterated the question about how long the site was used for extraction, and Mr. Sullivan noted it had been used for years. Dave Mentzer pointed out that Mr. Redmond had represented and Bob Beach confirmed that there was not active quarrying happening for a number of years on the site and this may be in conflict with current regulations on continuation of a non-conforming use. Mr. Sullivan noted it had been a quarry since he had purchased the property. Norm Smith asked if within a year of when he had purchased the property, if stone had been extracted and if there was any evidence of this. Mr. Sullivan noted he was unprepared to answer this question and if he needed to bring witnesses, it would need to occur at a different meeting. Dave Mentzer explained the need to address the issue and have evidence for allowance of commercial extraction to occur. Attorney Filosa noted that if this is something the Board was considering, they would need to time to prepare.

Mike Delaney asked if the extraction was a separate issue from the driveway, and Norm Smith noted that given that the driveway is for access to the commercial operation, if the use is not allowed, then the driveway is not a material issue. Norm Smith explained that they did not intend to catch Mr. Sullivan by surprise with this line of questioning, but that there was an assumption that this was a pre-existing operation and given that it appears it may not have been, there should be evidence presented that this operation had been in existence within one year of the purchase.

There was further discussion of the allowance of a roadway regardless of quarrying operations, and it was noted that the current matter was an examination of the roadway to serve quarrying operations so there needed to be careful consideration of whether or not quarrying was allowed as a conditional use, based on pre-existing non-conforming use. It was also pointed out that there would need to be careful consideration of the quarry being allowed to operate on a commercial basis.

Rick Ebel residing on Jersey Street explained that he was opposed to the application and explained that the nature of the quarry operations has changed over the years. Rick Ebel also pointed out that from his experience, this was a residential neighborhood in the RA-5 district so

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the use of the land as a commercial extraction site was not in conformance with the character of the neighborhood. After discussion, it was clarified that the Board was considering the matter in front of them, not examining all properties on Jersey Street. Mike Redmond explained his history with the site and noted that he was unsure of whether the pond constituted a wetland given that it was created as part of the home construction. Mr. Redmond noted that if the road was moved, he would have no complaint. Janet Ebel, a neighbor, explained it was her understanding the quarries should exist in commercial areas, such as along Route 7 and noted it was her understanding that any quarry still in operation should be generational.

Norm Smith explained that a motion could be to continue the hearing with the intent being the presentation of evidence of a quarry existing as a previous use and also noted that the map presented should show dimensions of the proposal and possibly a survey. ***Mike Delaney made this motion, with Dave Mentzer seconding.*** Attorney Filosa noted that they reserved their right to object the Board moving down this path of examination. ***The motion passed unanimously.***

Adjournment

There being no further matters for discussion, Katie Quinn made a motion to adjourn the meeting, which was seconded by Diane Nadon and the motion passed unanimously. The meeting was adjourned at 7:32 pm.