

Zoning Board of Adjustment
Town of Ferrisburgh, VT

Minutes for meeting of March 3, 2021

Note: This meeting was conducted remotely. All participants joined the meeting through a Zoom online meeting.

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

Town official present: Bonnie Barnes, Zoning Administrator, Craig Heindel, Conservation Commission, Robyn King, Minute Taker

Participants present: JC Ewing, Kathy and Steve Alexander, Andrew Shamis, Jeremy Revell, **Andrew D.**, Aaron Collette, Tom Spencer, Kudd Rood, Quinn McElwain, Doug Fletcher, Carl Cole, Mark Franceschetti, Catherine and Doug Brewer, Scott Hardy, Mike Hinsdale

Approval of minutes from February 3 meeting. Norm Smith called the meeting to order at 7:11 pm. ***There being no requested changes to the minutes, Dave Mentzer made a motion to accept the minutes as presented, which was seconded by Katie Quinn and the motion passed unanimously.***

Appeal of Permit No. 20-150 (Alexander) to build single family, one-story home; property ID #06/01/18:31; 25 Fuller Mountain Road; Rural Agricultural (RA-5) District

Bonnie Barnes introduced the matter and noted that the permit came in December, and it was issued January 5, 2021 for a single-family one-story home. Bonnie Barnes explained each Exhibit provided to the Board members including a completed application, the appeal from Aaron Collette, the Natural Resources Atlas of VT, an annotated map from Mr. Alexander, a wastewater and potable water supply permit, a letter from Lincoln Applied Geology, a revised plan, and site development plan from 2013.

Aaron Collette read a written statement which can be found here as Attachment A. Norm Smith and Dave Mentzer asked Mr. Colette to clarify the requests which included accurate building dimensions, collecting the correct permit fee based on the dimensions, confirmation that the wetlands specialist from the Vermont office to confirm there is no issue, and that a new application be filed for technical accuracy. Dave Mentzer asked if it would be acceptable if the house and the development were constructed within the setbacks and Diane Nadon clarified that the Town Highway Permit referenced by Mr. Colette would be in the jurisdiction of the Selectboard if there was an objection. Bonnie Barnes noted that the concern was that there is no permit on file, which is out of process. Diane Nadon noted that a site visit, with the corresponding submitted written comments from Mr. Collette, and maps would be helpful for review and Mr. Collette noted he could send along his written comments.

Steve Alexander noted that he had met with John Bull and that he had moved the driveway 75 feet north away from the property as it was his understanding that this would be adequate, and it was away from the property. Steve Alexander confirmed that he received the building permit on the 7th of January and that he posted the permit on the 9th and has a time-stamped photo for proof. Steve Alexander further noted that Jeremy Revell from Lincoln Applied Geology has reviewed the application to ensure it is compliant with setbacks. Steve Alexander further explained that he is not exactly sure where the building envelope will sit as it is still in process, but it would be within the setbacks, but it may be within 5-10 feet of what was submitted. Steve Alexander noted that Mr. Revell from Lincoln Applied Geology had noted they had not heard anything back from the state office on the wetlands and the 50-foot buffer and concluded that he had thought that they had responded to all concerns and thought they were following proper process.

Bob Beach asked if Mr. Alexander had fulfilled the request that had been stated by the appellant and Steve Alexander, he was aware that the permit for the driveway had not been submitted at the same time as the permit application, and this was an error but that the driveway was well within the setbacks. Steve Alexander noted that he had not realized that everything submitted needed to be finalized, and that while they may have small adjustments, they would respect any required setbacks and were ready to come to consensus.

Jeremy Revell, after a question from Norm Smith on the project sheet from the wetlands permit specialist, clarified that there was no response from the permit specialist and that typically they only receive a response if there is an issue. Mr. Revell noted that the project sheet was not included in an online file for this project, and that occasionally unless something is obviously out of compliance, they may not hear back from the state permit specialist and that was the assumption for this project.

Dave Mentzer noted an extension of this appeal would be helpful, and Diane Nadon suggested a review of the letter submitted and a site visit. Bob Beach asked what Bonnie's role is, and Bonnie noted that in this stage of an appeal, she is not as involved with interpretations of materials, given that the Board would need to decide whether or not the permit was appropriately issued. Norm Smith asked if the location of buildings was typically allowed to be moved, and Bonnie Barnes clarified that she inspects the footings to see if they are accurate, and that a foot or two would be appropriate, but if it's substantial she would ask for a permit amendment. Norm Smith confirmed that the envelope as submitted would be constructed roughly 120 feet from the southbound property line and 140 feet from the eastbound property line, and Mr. Alexander agreed.

Bob Beach asked about prior plans for this lot, and it was confirmed by Bonnie Barnes and Steve Alexander that this was a two-lot subdivision that was approved in 2013, and the original lot was 12 acres with a house built in 1989, and that the house and 6 acres were sold to the Collette's. Bob Beach confirmed that the building envelope on the second lot was provided at the time and was on the drawings including a well and septic and that the building envelope was in the general area of what was submitted.

The Board Members discussed how they would like to proceed, and it was confirmed that if the hearing was closed, they would have 45 days to deliberate. Bonnie Barnes noted she would ask the Town Attorney whether or not the Board could issue conditions or a settlement proposal. It was confirmed that Mr. Collette would like third-party oversight of the issue, and both parties were interested in resolution. There being agreement by the Board Members and no further questions, ***Dave Mentzer made a motion to close the hearing, which was seconded by Diane Nadon and the motion passed unanimously. The hearing closed at 7:54 pm.***

Norm Smith noted that they would accept the letter as evidence and there would be deliberations on the matter that would result in action within the 45-day timeline.

Application No. 21-015 (Shamis) to build single family home with attached garage; property ID #12/01/01, 588 Arnold Bay Road, Shoreland (SD-2) and Rural Agricultural (RA-5) Districts, conditional use

Andrew Shamis was present to speak to the application and noted that this would be a 2,400 SF home in the Shoreland district, and that they have draft approval of the shoreland permit from the state. Mr. Shamis presented elevations for the building during the meeting and explained that it's a rectangular structure with a slab, a small basement, a garage, and the west side of the house would be on piers. Mr. Shamis noted they were trying to limit impact on the terrain, and that the house would be built to Passive House standards using minimal fuels and that there would be two decks, one at ground level and one at the height of the master bedroom on the second floor. It was clarified that this is a new build without any tear down and that the exterior materials would be natural to blend into the landscape.

Craig Heindel from the Conservation Commission noted that the suggestions from the Conservation Commission on this application were to provide documentation of compliance with shoreland preservation, and that any clearing within the jurisdictional zone be shown on the site plan, which Mr. Shamis was agreeable to. Craig Heindel explained that not having any exterior lighting on the lake-side would be beneficial, but that downcast lighting would be best if there is exterior lighting, which Mr. Shamis noted he was planning on.

Craig Heindel mentioned that having a no cut zone on the north and south boundaries would be very beneficial, and this was something that was a focus, to not have clearcutting to property lines. It was noted that this may not apply to the property given there's a driveway on the north and water access to the south. Norm Smith clarified that this would be a part of the permit condition, and Mr. Shamis noted he was interested in honoring the request as there was no intent to clearcut but he would be interested in seeing language to ensure that he could comply.

Craig Heindel explained it would be good to maintain riparian buffers on streams with no cut zones and Andrew Shamis explained that there would be a culvert with the driveway crossing a stream, which Mr. Heindel noted was appropriate. Craig Heindel noted that there should be a plan for erosion protection and sediment control to ensure sediment wasn't entering the lake,

and Mr. Shamis explained that their construction plans were for minimal impact and Mr. Heindel noted that the designer of the property should have a short plan explaining methods.

Catherine Brewer, a neighbor to the south asked about the shoreland permitting process and notification to the neighbors. Mr. Shamis noted that notice was sent to the Brewers when they sent in the application and that the process entails working with a wetlands analyst who helps to prep the application and the draft approval is due to the public comment period being open, to see if any issues would be raised. Doug Brewer asked if they were notified that the comment period started and asked about the plan details being submitted to the state and Mr. Shamis noted that the state process required notification, which they had received and that the state was focusing on impervious surfaces and they were working closely with the Addison County Forester to mitigate construction impacts.

It was agreed by Board Members that a site visit would be conducted on April 7th at 5 pm. Dave Mentzer asked about the lighting recommendation from the Conservation Commission, and Craig Heindel noted that it's better that there be no lights on the lakeside but given there is a deck in the plans, it would be appropriate to have downlighting for visibility. It was agreed that the Conservation Commission would come up with draft language pertaining to the desired conditions for the permit approval for review by the Board and the applicant, and Craig Heindel agreed to provide this language.

There being no further questions, ***Bob Beach made a motion to continue the hearing at the next meeting of the Board, which was seconded by Diane Nadon, and the motion passed unanimously.***

Application No. 21-017 (Denton) for farmer's market within existing barn, property ID #10/20/15.9. Lot 10, Atkins Farm Road, Rural Residential (RR-2) District, conditional use

Mr. Scott Hardy was present to speak to the application and explained that there was interest in repurposing the vacant storage building on Route 7 to have a closed space farmer's market and he was aware that the lot is currently zoned as residential but there was interest in bringing business to the Route 7 corridor. Katie Quinn asked if this would be seasonal or year round and what the proposed hours of operation would be. Scott Hardy noted this would likely be from May to October and that this would be inside, and they were trying to come up with creative ways to use this space and invite people in.

Scott Hardy, after a question from Katie Quinn noted that he was unsure of the hours of operation as he was unsure of the demand, but he was desirous of having a space that local farmers could rent out on a seasonal basis. Diane Nadon asked about the interest in the space, and Scott Hardy noted there was one potential tenant and he had not done broad outreach yet.

Bob Beach noted that he thinks that this fits in with the character of the Town Plan as it repurposes a building and that he did not see a downside to the proposal. Scott Hardy noted that one of the farmer's typically set up in a tent on Route 7, and this would offer a more permanent place. Mike Delaney asked about parking plans, and Scott Hardy noted that parking

may be on the lawn of the property that's accessible from the side road but that he would need to define this further. Mike Delaney noted it would be helpful to have clarity on the hours of operation and Scott Hardy noted he could work on this, and that he anticipated business to take place in daylight hours.

Norm Smith explained that he thought this is a good conceptual idea and that he would like to see details on parking, and hours of operation, which was echoed by Mike Delaney. Diane Nadon asked about signage, and Dave Mentzer asked about the development plans. It was confirmed by Norm Smith that Mr. Hardy should re-appear in front of the Board with more details on parking, hours, signage and that this should look like a site plan with a narrative. Bonnie Barnes confirmed that the signage would need a permit, and the sign design should be a part of the supplementary materials provided to the Board. Katie Quinn noted she thought this was a good idea, but that she would like to have more detail on hours, and the business model.

After it was confirmed that this matter had been warned, ***Bob Beach made a motion that they recess the matter until the next Board meeting, which was seconded by Dave Mentzer and the motion passed unanimously.***

Application Nos. 21-012 & 013 (Franceschetti) for two self-storage buildings and office space in an existing commercial building, property ID #18/20/71; Village (VIL-2) district, conditional use

Carl Cole noted that he was present to represent the application and asked if Mark Franceschetti 's applications would be considered under the old zoning regulations or the newly passed regulations, given the zoning update process and that the new regulations pertained to this parcel. Norm Smith remarked that it was his understanding that the application would be considered under the zoning regulations it was applied under, meaning that the old regulations would be applied to this review.

Carl Cole noted that Mr. Franceschetti was interested in discontinuing another apartment to give up one use to allow for there to be the construction of two more storage buildings, sized 24 feet by 90 feet and that this was purely a business decision based on demand. Mike Delaney confirmed that the idea was that one of the uses, an apartment, would be exchanged for this use, which was confirmed by Carl Cole. Mike Delaney asked what would happen to the out-of-use apartment and Mr. Franceschetti noted that he would likely re-use the space to give room to other apartments and he would need to figure out the logistics of doing so.

Norm Smith asked about a structure on the site plan south of the new proposed buildings, and it was confirmed that this was an existing stormwater detention basin that would have to be enlarged. Diane Nadon asked if the proposal was for 6 separate storage buildings in total, which was confirmed.

Neighbor Mike Hinsdale noted that it was his interpretation that the previous application would be the last in which there would be proposed construction, and questioned the positioning of the driveway, and the space between buildings. Mark Franceschetti noted that he was unsure of

previous commitments and that there would be 30 feet of space around the buildings and the driveway would wrap around the buildings. Mike Hinsdale noted that he was unsure if this was an appropriate use for the property and that he was desirous of there being a cohesive development plan.

Bonnie Barnes noted that Jean Richardson had submitted a letter that the Board members may want to review, and Norm noted that the letter had two main questions that pertained to the vision for the property as it relates to a walkable footpath and the new traffic lights and crosswalk on Route 7, and also what the overall plan was. Mark Franceschetti noted that after this proposal, there would be no more room for development on the site.

Norm Smith noted that while the Board was considering this as an 8-acre parcel with a potential 8 allowable uses as an interpretation, it's important to consider the greater context of future development. Mr. Franceschetti noted that his interpretation of the regulations would allow for this development and that future regulations would prohibit any additional development, and that he had garnered a lot of interest for the office proposal from incubator businesses that would add benefit to the Town. Mr. Franceschetti noted that if there was funding available for a sidewalk he would be open to a gravel sidewalk being constructed. It was confirmed that the new zoning regulations technically would go into affect upon adoption.

It was discussed whether or not this application could count as part of the eight-use count and Board members expressed interest in a site visit. Mr. Franceschetti explained that the four apartments would count as four uses, and the three rounds of storage would be three uses and the commercial building to be used as an office would be the final use for the eight-use maximum.

There being consensus among Board members that a site visit would be beneficial, ***Dave Mentzer made a motion to continue the hearing on the application pertaining to the additional storage units until the next meeting, which was seconded by Diane Nadon and the motion passed unanimously.*** It was agreed that the site visit would occur on March 27th at 10 am.

Mr. Franceschetti explained that the other application was to convert the barn into office space, and this was above the garage and that there was interest in turning this space into a podcast recording area and there was also interest from an artist. Mike Delaney noted this would be another use, and Carl Cole explained this would be the primary use of that structure, as it would be office space and that this did not require acreage for each unit. Mr. Franceschetti explained that per his interpretation of the zoning regulations, this space would count as part of the primary use of the structure as the building was primarily being used for commercial tenants.

There being no further questions, ***John Paul made a motion to continue the hearing on the commercial office space until the next hearing, which was seconded by Dave Mentzer and the motion passed unanimously.***

Application No. 20-137 (Cullen) to add garage, studio and mudroom without sufficient setback; property ID #99/99/99.006; 16 Annex Road, Rural Agricultural (RA-5) District; waiver, continued from February 3 hearing.

There being no further activity on this application, ***Dave Mentzer made a motion to continue the hearing until the next meeting, which Katie Quinn seconded, and the motion passed unanimously.***

Application #20-136 (amended) (McElwain) to add 12' wide porch to 72 foot side of new commercial building; property ID #23/20/47, 2847 U.S. Route 7, Highway-Commercial (HC-2) District, conditional use, continued from February 3 hearing

Mr. Kudd Rood was present to speak to the application and noted that they had come up with the idea for the storage shed from the Board members and they would like to store materials in the shed. Bob Beach asked if it would be an open shed, and if it was going to be lit, and Mr. Rood noted that they would be lighting the interior of the shed. Bob Beach asked what materials would be stored, and Mr. Rood and Quinn McElwain explained it would be their metal materials for building and it could include pellet racks or possibly some staging to keep these materials out of the snow.

Katie Quinn asked about the placement on the building, and Mr. McElwain noted it would be on the south end of the building, to allow for more roof surface for a possible solar array. Dave Mentzer asked about roof pitches, and Mr. McElwain noted that it would be a 4-12 pitch on the outside, a 1 pitch on the inside with an open cathedral ceiling and the interior would host a mezzanine with an office, bathroom, and boiler controls room on the northwest corner inside. Mike Delaney confirmed that the long run of the building is east-west and that the garage door would be visible from Route 7, and that the building would have black siding and a black roof.

Bob Beach asked about the materials under the roof, and Mr. McElwain noted it would be poured concrete.

There being no questions from the public, ***Dave Mentzer made a motion to close the hearing, which was seconded by John Paul and the motion passed unanimously. The hearing closed at 9:14 pm.***

Dave Mentzer noted that it seemed that the lighting would be in the interior and Norm confirmed there was note in the plans for all downcast lighting attached to the building. Dave Mentzer noted that the Board was interested in understanding intent, which they had received at tonight's meeting.

There being no further questions, ***Dave Mentzer moved to approve the application as submitted, with a 4-12 roof pitch, an office space, a south-facing shed roof for storage and full cutoff light fixtures, which was seconded by Mike Delaney and the motion passed unanimously.***

Other Business

Diane Nadon made a motion to enter into Deliberative Session, which was seconded by Dave Mentzer and the motion passed unanimously. The Board entered into Deliberative Session at 9:16 pm.

Diane Nadon made a motion to adjourn the meeting, which was seconded by Katie Quinn and the motion passed unanimously. The meeting was adjourned at 9:27 pm.