

**Approved on: May 5, 2021 – Zoning Board of Adjustment – April 7, 2021 Minutes**

**Town of Ferrisburgh, VT  
Minutes for meeting of April 7, 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:** Clark Hinsdale, Selectboard Liaison, Bonnie Barnes, Zoning Administrator, Craig Heindel Conservation Commission, Robyn King, Minute Taker

**Participants present** Andrew Shamis, Kristen Shamis, Scott Hardy, Mike Hinsdale, Mark Amblo, Ed Stein, Allen Welch, Mr. Frechette, Galen Hagen, Sylvia Miller

**Approval of minutes from March 3, 2021.** Norm Smith called the meeting to order at 7:02 pm and asked if Board Members had the opportunity to review the minutes. Katie Quinn noted that an amendment was needed under the matter of the appeal, to change the name from John Paul to John Bull. ***There being no further comments, Katie Quinn moved to approve the minutes as revised which was seconded by Dave Mentzer and the motion passed unanimously.***

**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; continued from March 3 hearing.**

Norm Smith introduced the application, and Kristen and Andrew Shamis were present to speak to the application. Craig Heindel of the Conservation Commission noted that several of the issues appeared to have been resolved by the applicants, including their permit being approved under the Shoreland Protection Act. Craig Heindel clarified that his role was to review the conservation elements of the zoning regulations and provide comments. Craig Heindel pointed out several sections of the code including 5.37 pertaining to wetlands, 5.9 pertaining to erosion control, and 5.29 pertaining to riparian buffers. Craig Heindel noted that the conservation would request that the applicant prepare an erosion control plan, given the disturbance within the regulatory setback. Craig Heindel explained that there were a few streams on the property including in the center of the property, the northeast corner, and the southwest corner in accordance with the natural resource atlas which should have riparian buffers, with the exception of the southernmost stream.

Kristen Shamis noted that she had gone through years' worth of meeting minutes and it seemed that the comments from the Conservation Commission had come in very suddenly with no warning. Kristen Shamis explained that they were building a 2,400 square foot house on a 25-acre parcel and were trying to make this as low impact as possible, with a low footprint and it seemed that the application was under greater scrutiny without cause. Kristen Shamis explained that according to Section 5.29 of the code, that this did not apply to land located on

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Lake Champlain and she was confused by the Conservation Commission's reaction given that they had obtained their Shoreland Protection Act permit. Kristen Shamis noted that in terms of the riparian buffers, she was unsure of the validity of the stream in the north corner and that they did not intend to develop that part of the parcel and this comment regarding riparian buffers seemed inappropriate for the application. Kristen Shamis explained that the erosion control plan seemed unnecessary given that the intent was to follow the best practices of the Shoreland Protection Act. Kristen Shamis reiterated that they were doing all they could to have low impact to the land.

Andrew Shamis explained that it appeared that there was a misrepresentation about the stream in the north corner, and the suggestions by the Conservation Commission seemed inappropriate in this regard. Kristen Shamis noted they would like an example of an erosion protection plan, and that Bonnie Barnes had noted this would not be required. Andrew Shamis explained that the Shoreland Protection Act very clearly defines erosion control and the suggestions made by the Conservation Commission were frustrating, Kristen Shamis noted that they were not adequately notified about the meeting of the Conservation Commission.

There being no other neighbors present to speak to the application, Craig Heindel noted that the Conservation Commission had provided comment on many applications over the past fifteen years and that while the Shamis's were not the first, they were under the new zoning regulations that contain language regarding riparian buffers and erosion control plans. Craig Heindel went on to note that while the language in the zoning code was poorly worded on the jurisdiction, which would need to be examined by the Zoning Board, the intent was that the Conservation Commission's jurisdiction was on any property in the Town and was not exclusionary of the Shoreland District.

Andrew Shamis explained that in looking through the minutes, it seemed like a site visit and these kinds of requests by the Conservation Commission was not asked of other applicants. Kristen Shamis pointed out that the zoning language did state that their property was not subject to requirements of riparian buffers. Clark Hinsdale noted that the Conservation Commission's scope was much wider than the Shoreland District. Kristen Shamis explained that they were trying to build a house that was not going to make a significant impact on the land.

***There being no questions from members of the public or Board members, Katie Quinn made a motion to close the public hearing, which was seconded by Dave Mentzer and the motion passed unanimously. The public hearing closed at 7:31 pm.*** Craig Heindel expressed appreciation for the Shamis's efforts in conservation.

Norm Smith explained that they would be discussing the matter during deliberations and explained that they would be issuing a written decision as quickly as they could.

**Application # 21-017 (Denton) for farmers market within existing barn; property ID #10/20/15.9; lot 10, Atkins Farm Road; Rural Residential (RR-2) District; conditional use; continued from March 3 hearing**

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Scott Hardy was present to speak to the application and noted that after last meeting there was a request to have more information on signage, hours, and parking and that he had submitted additional information on these points for consideration. Norm Smith commented that there were drawings of the proposal, and asked Mr. Hardy how many parking spaces were planned.

Mr. Hardy noted that there were 20 spaces, with another 8 on the backside of the property which would be leveled out, and six spaces for vendors of varying sizes on the front of the property. Mr. Hardy presented the proposal and showed the placement of the sign and the flag and clarified where the six vendors and twenty parking spaces would be located on the drawing.

Norm Smith asked if members of the public were present to speak on the application, and there being none, asked about how people would access the parking and if a curb cut was planned. Mr. Hardy noted that there would be no additional curb cut, and that he thought there may have been elimination of a previous curb cut. Norm Smith asked if people would be accessing parking from an entrance on the south end, which Mr. Hardy confirmed.

Clark Hinsdale provided some reference and noted that it would be advantageous to look at the Vermont Department of Transportation Route 7 survey to ensure that the right-of-way that was serving the old Atkins residence would not be infringed upon. Clark Hinsdale noted that with the size of the parcel, they should have plenty of land to work with in terms of parking and asked if the Zoning Board would want to approve the application without seeing a legal survey.

Norm Smith asked about the placement of the right of way, and it was confirmed that it goes along the east side of the barn and ends at the house. Mr. Hardy asked about the zoning requirements of parking, and Norm Smith noted that he was more supportive of parking being placed on the south and west side of the property as parking along Route 7 may be problematic, which Diane Nadon agreed with.

Mr. Hardy was open to moving the parking to an area that had been earmarked for future parking needs. Bob Beach noted specifics in the zoning code on parking regulations, and Mr. Hardy explained they could dictate which areas of parking were primary, secondary, and third if things became crowded.

Clark Hinsdale explained that when the barn lot was approved for a subdivision, there was the inclusion of municipal water and to the common sewer system serving Atkins Farm, and asked if they were planning on using these systems. Mr. Hardy explained they were not planning on using the sewer system and would be installing portable sewage equipment. Bob Beach confirmed if it would be acceptable to remove four parking spaces between the barn and Route 7, which Mr. Hardy affirmed and noted he would resubmit an updated version of the map. Bonnie Barnes suggested that Mr. Hardy contact the Vermont Department of Transportation for clarity and any additional permitting requirements regarding Route 7 and the right-of-way.

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***There being no further questions, Katie Quinn moved to close the public hearing, which Diane Nadon seconded, and the motion passed unanimously. The public hearing was closed at 7:46 pm.***

***Bob Beach moved to approve the application with the plan as revised during the hearing, which was seconded by Diane Nadon.***

Dave Mentzer inquired about hours of operation, which Mr. Hardy noted would be from 9 am to 6 pm. Mike Delaney noted that it would be good to collect and file the response from the Vermont Department of Transportation so that it would be on record.

***There being no further comment, the motion passed unanimously.***

**Application Nos. 20-12 & 013 (Franceschetti) for two self-storage buildings and office space in existing commercial building; property ID #18/20/71; 14 Old Hollow Road; Village (VIL-2) district; conditional use; continued from March 3 hearing**

Norm Smith noted that there was a scheduled site visit between the last hearing and this hearing but that the visit had to be postponed. Norm Smith asked if there should be a reschedule of the site visit prior to continuing the hearing, which the Board members agreed to. Mr. Franceschetti was apologetic regarding the missed site visit. It was agreed that the site visit could occur on May 5th at 5 pm.

Mike Hinsdale, a neighbor, noted he had submitted written comments to the Board and to the applicant and was concerned that in accordance with the zoning regulations that this application was incomplete and noted that he was a concerned citizen. Norm Smith explained to Mr. Hinsdale that they would discuss Mr. Hinsdale's comments which they had received at the next hearing after a site visit had been conducted and clarified that if Mr. Hinsdale would like to appeal the application, then that would be a separate matter.

***There being no further questions, Diane Nadon made a motion to continue the public hearing and to conduct a site visit, which was seconded by Bob Beach. The motion passed unanimously.***

**Application No. 21-024 (Amblo) for two shipping containers with lean-to plus roof-top solar; property ID #18/20/79.2; 6622 Route 7, Village (VIL-2) district; conditional use.**

Mark Amblo was present to speak to the application and noted that he had used a shipping container as a garage and thought it would be a sound idea to put solar panels on top of the shipping container that was already installed and would like to have two shipping containers with solar on top. The Board members clarified the location of the property, and also asked that the application be sent along for review.

Mark Amblo explained that he had collected a letter from each neighbor noting that they were comfortable with the proposal and noted that he was not able to meet setbacks given the size of his lot. After a question from Dave Mentzer on siting, Mark Amblo clarified that the second

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storage container would be located immediately next to the fence on the north side facing the Tavern, and that the fence was the property line, hence the setback issue. Mark Amblo explained that he was unaware that he needed a permit for his first shipping container that was located on the property, so this application was for both the existing container and a new container as well as the solar.

Norm Smith asked about the width of the lot, and Mark Amblo noted that it was not very wide, and perhaps a total of 100 feet. Dave Mentzer asked about the property line in relation to the house, and Mark Amblo noted it was about 12 feet south of the house and that the neighbor to the south was agreeable to his plans. Bob Beach asked if the Marcotte's, who own the Tavern which is the neighbor on the north side of the property were agreeable as well, and Mark confirmed that they were.

Diane Nadon asked if a solar company had been consulted on the scope of the proposal and Mark Amblo explained that he was employed with a local solar company and they were offering him a means to construct this solar array. Dave Mentzer asked if this solar array would be ballasted, and Mark Amblo confirmed that it would be, with cinder blocks. Dave Mentzer confirmed a question from Katie Quinn on how the solar array is constructed and anchored. Katie Quinn asked if Mr. Amblo would own the shipping containers, which Mr. Amblo noted he would.

Dave Mentzer asked if Mr. Amblo was agreeable to placing the new shipping container south of the existing shipping container and also asked if the calculations had been done to ensure the solar system wouldn't blow over. Mr. Amblo confirmed that the solar array would be weighed down, and also that he was open to re-siting the new shipping container. It was confirmed that the application would be sent to the Board members for review during the meeting, and also that the proposal would not meet the 25-foot side yard setback required in the Highway Mixed Use district.

Diane Nadon asked about the rear property line, and Mark Amblo noted that the property line would sit roughly 30 feet from the shipping container. Norm Smith noted that the previous shipping container likely was not in conformance but that this could be part of the granting of the waiver, and Mr. Amblo noted that it had been on-site for a few years. After a question from Mike Delaney on the number of shipping containers, Mr. Amblo confirmed that this application was to bring the original container into conformance and for the new shipping container.

There being no neighbors present, Clark Hinsdale noted that he was appreciative of Mr. Amblo reaching out to neighbors and that in general, it would be good to see a more complete application with dimensions, but he was comfortable with either siting of the new shipping container so long as these were treated as temporary structures and their placement would not constitute an approval of permanent structures being sited in these locations. Bob Beach noted he was in agreement with Clark Hinsdale and that he was agreeable to the containers being sited either more to the north or more to the south.

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***There being no further public comment, Bob Beach made a motion to close the public hearing, which was seconded by Katie Quinn and the motion passed unanimously. The public hearing was closed at 8:20 pm.***

John Paul noted that this was a small pre-existing lot and asked if they were to grant a waiver if this would need to be warned, which Norm Smith noted he did not think was necessary. Diane Nadon asked about the letters obtained by the applicant, and Mark Amblo explained he had one from each neighbor, but Norm Smith noted that only the letter from Travis Marcotte was in the file and Mr. Amblo noted he would get a copy of the other letter to send in if it was not on-hand.

Dave Mentzer noted that he could see the merit of siting it to the north given that the neighbor is agreeable to this so that Mr. Amblo had more of a yard, which was agreeable to the other Board members. Bob Beach explained that it was good to point out that these are temporary structures and that if the property is sold or changed hands, that there should be another application if there were to be other permanent structures constructed, which Mr. Amblo noted he understood.

***Norm Smith made a motion to approve the application as submitted with the condition that any proposal for a permanent structure would require a new permit and that a waiver was granted for the side yard setback dimensional standards for the proposed and existing unit given the nature of the project, which was seconded by Bob Beach and the motion passed unanimously.***

**Application No. 21-028 (Stein) for shed; property ID #19/20/34; 75 Kimball Point Lane; Shoreland (SD-2) District; conditional use and waiver**

Ed Stein was present to speak to the application and noted that he was planning on placing a 10 by 14-foot Livingston Farm shed on the northeast corner of the property. Mr. Stein explained that the shed was allowed by conditional use, that it is in conformance with the town plan given that it's sited as far away from the lake as possible. Mr. Stein continued in explaining that the shed would be in character with the built environment as the shed would match the coloring of the house, dark blue and white trim, and that the shed would not be offensive to anyone. Mr. Stein pointed out features on the map, explaining that the siting of the shed was due to some geographic features and built features including the septic system, a sand pit, drainage, and his driveway, but that he was mindful of setback requirements.

Norm Smith asked about setback requirements in the Shoreland District, and Bonnie Barnes confirmed it would be a 25-foot setback requirement from the side yard. Norm Smith confirmed that the proposal was for a 6-foot side yard setback. Mr. Stein noted that if he were to meet the 25-foot side yard setback, the shed would be located in his driveway and that he was asking for the shed to be 10 by 14 feet with the applicable permit given that he intends to use the shed to store kayaks and the kayaks are 13 feet long.

Norm Smith invited comments from neighbors, and Allen Welch of 61 Kimball Point Lane noted that he was not concerned with the exemption for the setback, but that he wanted to ensure that

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the measurements are correct for the proposal and other structures on the property as there had been discrepancies in the past and he wanted to ensure the public record was accurate. Norm Smith asked for clarification, and Mr. Welch explained that he wanted to ensure that the placement of the shed would be six feet off of the property line given that work in the past may not have been sited accurately.

Mr. Stein clarified that Mr. Welch was referring to a design for a new septic system which had to be re-measured by the professionals working on the plans after plans were submitted that had inaccurate measurements. Mr. Stein explained that he had sent in the revised plans to Bonnie but understood that the Town does not have jurisdiction and that the Town would receive the approved paperwork from the state and that he believed this paperwork was available by download from the state.

Norm Smith asked if Mr. Welch was asking for Mr. Stein to survey the property, and Mr. Welch noted that if there were measurements supplied, it was a moot point and that he wanted to ensure there is accuracy with records that are on-file with the Town. Norm Smith clarified that the request was for a waiver of the 25-foot setback to have the shed sit 6 feet from the property line which likely would not require a survey, but would require measurement, which was agreeable to Mr. Welch. Bonnie Barnes offered to print off a copy of the site plan for the septic to have on file although not related to the application and waiver, but so that it is included in the file, which Mr. Stein and Mr. Welch appreciated.

***There being no further comments, Dave Mentzer moved to close the public hearing, which was seconded by Diane Nadon and the motion passed unanimously. The public hearing closed at 8:39 pm. Dave Mentzer moved to grant the waiver based on the drawing submitted, which was seconded by Katie Quinn, and the motion passed unanimously.***

**Application No. 21-030 (Frechette) to relocate caretaker cottage; used as short-term rental; property ID #04/01/01; Rural Agricultural (RA-5) and Shoreland (SD-2) Districts; conditional use.**

Mr. Frechette was present to speak to the application and noted that they were seeing to move their caretaker cottage which was a small one-bedroom cottage that sits close to their primary residence. Mr. Frechette explained that the proposal included moving the structure 300 feet within their farmstead area to use as an Airbnb and that this was within their conditional use.

Norm Smith asked where the cottage was being moved, and Mr. Frechette explained that currently, the cottage was roughly 30 feet away from the house and it sits between the primary house and the barn, and that they were trying to place the cottage to the south east. Norm Smith asked if it would be sited at least 25 feet from the property line, and Mr. Frechette confirmed it would be roughly 100 feet off of the property line. Bob Beach asked if the lot was at least 25 acres, which Mr. Frechette confirmed.

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Norm Smith noted that the application included building an equipment barn and relocating the existing building, and Bonnie Barnes explained that there were two applications and that the barn was an agriculturally exempt building and that she had issued a permit for this, but that the relocation and approval as an Airbnb were under consideration.

Norm Smith asked if there were any members of the public present, and Clark Hinsdale noted that he is an adjoining landowner and that where the cottage would be moved is in the RA-5 District but that the Airbnb use would need a permit. Clark Hinsdale explained that he was fully supportive of the application and that it had little to no impact on neighbors.

Norm Smith asked about the moving of the structure, and Mr. Frechette explained it would be moved in its entirety. Katie Quinn asked about the siting of the building in relation to the driveway and Mr. Frechette explained it would be west of the driveway. Norm Smith asked about parking, and Mr. Frechette explained there would be one parking space north of the building, with additional parking available off the driveway and in other locations around the property all without impervious surface.

Bob Beach noted it seemed like a reasonable use, and Katie Quinn asked about the number of bedrooms, which Mr. Frechette explained there would be one. John Paul asked about the existing septic and Mr. Frechette noted that the cottage would be reconnected to the existing septic after the relocation.

***There being no further questions, Katie Quinn moved to close the public hearing, which was seconded by Diane Nadon and the motion passed unanimously. The public hearing closed at 8:48 pm. Bob Beach made a motion to accept the application as presented for the relocation of the shed and its use as an Airbnb, which was seconded by Katie Quinn 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**

Bonnie Barnes explained that Mr. Cullen had not yet been before the Long Point Corporation and therefore this hearing would be postponed until the next meeting.

**Application No. 21-035 (Heritage Automotive Group) for lighting plan and office space; property ID #15/02/21; 157 Monkton Road; Highway Mixed Use (HMUD-2) District; conditional use**

Galen Hagen was representing the Heritage Automotive Group and noted that they had purchased the property and put together a lighting plan and intended to park their inventory on-site and allow for employee access of the building. Sylvia Miller presented the specifics of the lighting plan and noted that the lighting was intended to be security lighting to prevent evening theft and intruders. Sylvia Miller explained that there were two styles of lighting being proposed, in the center for the office building and around the perimeter. Sylvia Miller explained that the



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lights were LED, fully dimmable, cutoff, low-wattage fixtures that could be controlled automatically or manually and could be set to be on at dusk and off at dawn.

Sylvia Miller explained that the lighting is being proposed to replace some of the existing lighting which has reached its expiration and that the lighting was dark sky compliant and was designed to reduce light spill beyond the property line and that they were placed as far apart as they could be. Sylvia Miller explained the specs that were included on the plans and explained that the owner intended to have security cameras affixed to the building and the lighting would add to the security as it would all be turned at full output on if there was a breach but would otherwise not be fully on.

Diane Nadon asked how many poles there were in total, and Sylvia Miller pointed out each light and explained there would be 11 in total, including existing lighting. Norm Smith asked if members of the public were present for the application, which there were none. Katie Quinn asked why this wasn't proposed during the original application presentation and Mr. Hagen explained that he understood that there was a need for enhanced security for the safety of storing the vehicles and for the employees which may be coming in early in the day during transitional periods. Bob Beach pointed out part of the original approval was to come back before the Board if there were changes to the lighting.

Diane Nadon asked about the note on the plan that the office was intended for 20 employees as this was new information. Mr. Hagen noted that he was unsure of where this figure came from and they were concentrating on the lighting. Norm Smith and Bonnie Barnes reviewed the minutes from the previous meeting where the proposal was approved and confirmed that there was no mention of the 20 employees now noted on the plan, and Mr. Hagen noted that the 20 employees may have been a typo. Katie Quinn noted that she recalled discussion of the building being used as a break room for employees.

Bob Beach asked if the 20-employee note would impact or change the permit as he recognizes this was not discussed and was unsure of water or wastewater requirements. There was discussion of the wastewater permit and whether or not this property had its own septic system or was connected to Vergennes' water supply. Bonnie Barnes confirmed that in the previous meeting, it was noted that the office building would be used as an employee break room and to store records.

Katie Quinn noted that she would not be in favor of approving the portion of the plan that mentioned the 20 employees as this would need clarification, and Dave Mentzer noted he was in agreement that someone would need to speak specifically to this part of the plan in order for it to be considered. Mr. Hagen explained that he thought the 20-employee note may have been an error and that this presentation was for a lighting plan and improvements only. Bob Beach noted that while it's a commercial use, given that the 20 employees were not on the first permit and wasn't represented in terms of the wastewater and other considerations there should be a review of the use if this is the intent.

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***There being no further questions, Dave Mentzer moved to close the public hearing, which was seconded by Bob Beach. The public hearing closed at 9:18 pm.***

Dave Mentzer noted that he would be ok with approval of the lighting plan as submitted, but that no full-time employees should be in the building. Bob asked if they should be asked to come back for a permit if they have a staff use that is different than what was represented. Dave Mentzer explained that it seemed reasonable to continue the use that was requested during the approval in December. John Paul asked if it could be conditional on the permit, and Norm Smith explained that it was his suggestion to approve the lighting plan and the continued use for staff to use the building to use as a break and to store records in.

Dave Mentzer noted that this had been addressed, and it may not be advantageous to add language, and Norm Smith asked about the merits of making this more explicit. Bob Beach asked if this was included on the permit and noted its inclusion in the lighting plan. Dave Mentzer pointed out that it seems in alignment with the previous approval not to have anyone working in the building, and Norm Smith confirmed that the lighting plan could be approved but the office space for 20 employees would be denied and the previous use presented would stay.

***Dave Mentzer made a motion to approve the lighting plan as submitted, with the condition that the office building can be used for temporary staff breaks and record storage, which was seconded by Katie Quinn and the motion passed unanimously.***

#### **Deliberations**

There being no further questions or agenda items, ***Katie Quinn made a motion to close the public meeting, which was seconded by Bob Beach and the motion was unanimous.***

#### **Adjournment**

There being no further business, ***Diane Nadon made a motion to adjourn the meeting, which was seconded by Katie Quinn and the motion passed unanimously. The meeting adjourned at 9:32 pm.***