

**Approved on: June 2, 2021**

*Town of Ferrisburgh, VT*

Minutes for meeting of May 5, 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, Robyn King, Minute Taker

**Participants present:** Carl Cole, Mark Franceschetti, Allison Parsons, Jeff Parsons, Sherilyn Rehm, Tom Rehm, Mike Redmond

**Approval of minutes from April 7, 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 there was a typo in spelling on the first page in regard to the word several, Norm Smith noted that there was a typo on page three in regard to wording in a sentence regarding the public being present and it was noted that Craig Heindel's last name was spelled incorrectly. ***There being no further comments or revisions, Katie Quinn moved to approve the minutes as revised which was seconded by Bob Beach and 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Smith noted that the application numbered 21-012 for the construction of two additional self-storage buildings had been withdrawn, and that application number 21-013 is for the existing building being used for an office to host commercial tenants. Norm Smith noted the site visit had been conducted and had been educational. Bob Beach stated that he thought the application was reasonable and that with the removal of the apartment uses, this balanced out the wastewater requirements given that the business uses would need less water. Bob Beach explained there was additional parking for two cars. Katie Quinn asked if the apartment had been out of use due to the second set of storage units, and Mark Franceschetti confirmed that the apartments had been out of use, and he was coming in to ask about the current office building being used for two additional office spaces.

Mike Delaney asked if the storage units were withdrawn and if the application was being reviewed as each tenant use being a separate use or if an entire building was one use and noted the need for clarification on whether or not individual tenants would be seen as separate uses or one commercial operation. Mr. Franceschetti noted that in reviewing the zoning regulations it appeared as though the chief purpose of the structure under consideration would be commercial with commercial tenants, and he had seen this be applied similarly in other

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towns. Dave Mentzer asked if Mr. Franceschetti knew which businesses would be occupying the spaces, and Mr. Franceschetti explained he was not sure but with the limited parking he thought the businesses may be startup or incubator businesses or it may be appropriate to house an artist studio.

Bob Beach asked if this property fell into the North Ferrisburgh Village District, and Norm Smith explained that it was his opinion that this application should be reviewed under the previous zoning regulations, given that it was submitted ahead of the zoning regulations taking effect, and that case law on the matter is complex. Norm Smith explained that he was most concerned about the parking and he would like to see a parking plan so that it's clear where the parking would be located and what capacity there is. Mr. Franceschetti noted that there are 10 parking spaces parallel to Old Hollow Road, and another two that would be backed up onto the side of the property with the hedge. Norm Smith explained that a parking plan would be helpful to frame where these are, which Mr. Franceschetti agreed with.

John Paul explained that it was his understanding that an application like this would not be reviewed as separate uses for each tenant, and that it would be a blanket approval. Carl Cole noted that typically for an office rental, there would not be an appearance for each tenant and especially in this situation where there is no business being conducted outside of the space. Dave Mentzer noted he recalled the Board reviewing applications such as these in this manner as one use, and Norm Smith pointed out the concern over parking given the creation of two new spaces and the limitations of that. Carl Cole asked about the number of parking spaces given up from the apartments, and it was confirmed that two spaces were given up from the conversion.

Norm Smith asked if there were members of the public present to speak, and Selectboard Member Clark Hinsdale noted that his concern was that there was about to be construction at the intersection in North Ferrisburgh and he wanted to ensure that no part of the proposal impacted the right-of-way and the sidewalk connections, given the accidents that had happened in the intersection in the past. Bob Beach noted that there were no impediments to the right-of-way identified during the site visit, and Clark Hinsdale noted his appreciation given that he was supportive of the Route 7 reconstruction project and would not want to have a scenario where people were trying to park in the right-of-way but that this was his primary concern. Norm Smith explained that the Board did not have the authority to approve of anything in the right-of-way but that the concern over parking was the limitation of only having two spaces to serve two businesses as people could not park on the road.

Mr. Franceschetti noted that he was interested in seeing the sidewalk plans as it was his understanding that the sidewalk wouldn't extend onto his property and he had been trying to ensure responsiveness to requests by the Hollow Road Association for crushed stone walkways across his property. Norm Smith explained that the sidewalk would be within the right-of-way and should not be on his property. There was discussion over the siting of the sidewalk with an understanding that these plans had not yet been finalized, but it would be within the right-of-way.

**Approved on: June 2, 2021**

Clark Hinsdale explained that he was supportive of the concept of a parking plan that would be filed as this would give more clarity, given that there are limiting factors of Hollow Road including that it does not have a shoulder and he was concerned about safety of pedestrians near the intersection. Dave Mentzer noted that he saw the need for the parking plan with a narrative or calculations that demonstrated that the proposal met the parking regulations, unless an exception was being requested.

Mr. Franceschetti noted he had twelve parking spaces and it was clarified by Dave Mentzer that the dimensional requirements noted that for an office, there needed to be one parking space and an additional for every 200 square feet of space. Mr. Franceschetti noted he would look into this and Norm Smith noted that there may not be sufficient parking and more area may need to be designated. Dave Mentzer noted there could be a different configuration, and Bob Beach noted that he was in favor of Mr. Franceschetti's proposal given that he would be bringing business into the Village District and Katie Quinn agreed. It was concluded that Mr. Franceschetti needed to supply a parking plan that included commercial and residential uses, that would have a map on it, and that would show how the proposal met the previous zoning regulations in terms of parking requirements.

There being no further questions, ***Dave Mentzer made a motion to continue the hearing until the next meeting, which was seconded by Diane Nadon and the motion passed unanimously.***

**Application No. 21-053 (Parsons) for studio on pre-existing small lot with insufficient setback; property ID #18/20/09; 71 Mount Philo Road; Rural Residential (RR-2) district; waiver.**

Allison Parsons was present to speak to the application and she noted that she had an art studio in her existing garage on Mount Philo Road and that this was seasonal, and she would like to build a new studio behind the existing shed, but that it would be within 65 feet of the centerline of Mount Philo Road. Dave Mentzer clarified that this would be behind the existing structure, and Mrs. Parsons confirmed. Norm Smith asked about the setback, and Mrs. Parsons noted it would be sited 65 feet from the centerline of Mount Philo Road, and Norm Smith noted it should be 80 or 100 feet and this would be a waiver from the dimensional requirement but that it would not stand out with the existing building there.

Diane Nadon asked how far this would be from the Church property, and Mrs. Parsons noted that property is likely about half an acre back. Katie Quinn confirmed that it would be about the land but not be close to the building, and Dave Mentzer pointed out it would be roughly 300 feet from the building with a good deal of trees in between. Mike Delaney asked if it would be in the same style as the existing shed, and Mrs. Parsons explained it would be a different roofline, and it would be a shed roof but that the overall style would be consistent with the house and the garage. Bob Beach asked if it was fair to say this new structure would be set back further than the house, which Mrs. Parsons agreed with, and Bob Beach explained it's not out of character.

**Approved on: June 2, 2021**

There being no questions from any members of the public, Katie Quinn asked if there would be power to the building, which Mrs. Parsons confirmed. Katie Quinn asked about exterior lighting and Mrs. Parsons noted there would likely be a light outside the door to come in. Diane Nadon asked about water connections, and Mrs. Parsons noted there would be water, and there would be a sink in the structure. Bob Beach explained he thought it was a reasonable use of the land.

Dave Mentzer read through the waiver requirements which include whether or not a proposal is allowed in the District, if it's in conformance with the Town Plan, if the design is consistent with the character of the land, and if it's a reasonable request that does not offend the average person. ***There being no further questions, Mike Delaney made a motion to approve the waiver as it met the criteria, which was seconded by Diane Nadon and the motion passed unanimously.***

**Application No. 21-052 (Rehm) for storage shed on pre-existing small lot with insufficient setback; property ID #13/01/61; 2369 Button Bay Road; Rural Agricultural (RA-5) district; waiver.**

Dave Mentzer noted this proposal was five feet back from the property line in each direction. Tom Rehm explained they would like to purchase a storage shed from Livingston and they intended to use this to store equipment. Mr. Rehm noted their lot was half an acre and if they moved the storage shed to meet the requirements, it would not be possible. Mr. Rehm noted that this is a non-permanent structure and it could be moved.

Dave Mentzer noted there was nothing around this property and it would not encroach on anything and the proposal seemed in line with the character of the property and region, and noted this would be another dimensional waiver.

There being no further questions, ***Dave Mentzer made a motion to approve the waiver as submitted, which was seconded by John Paul and the motion passed unanimously.***

### **Other Business**

Mike Redmond of 2078 Jersey Street explained that his neighbor Mr. Sullivan had purchased the adjoining property two years ago and he was concerned that the location of the 60-foot right-of-way on the southern border is not within the allowable setback and has become a small road for the extraction activities. Mr. Redmond noted that he was not concerned with how Mr. Sullivan was removing stone from the property, but was concerned about the location of the road and access as it was noisy and there was a lot of dust created from the use of the road which impacts the use of his land and his livestock. Norm Smith pointed out that unless there's an application under consideration, he was unsure of the Board's authority in this matter. Norm Smith asked if there had been extraction at the property previously or if this was new activity.

Mr. Redmond explained that the extraction was new this year, and that Mr. Sullivan was extracting stone roughly 60 feet from the southern side of his home, across from his fence. Mr. Redmond explained that he had asked Mr. Sullivan to move the road, and noted he did not think that Mr. Sullivan had the frontage for the access road or the proper setback. Norm Smith asked

**Approved on: June 2, 2021**

if there was stone extraction when Mr. Redmond purchased his property and Mr. Redmond noted there was some extraction but it was not consistent or at a high-volume.

Bonnie Barnes noted that she and Mr. Redmond had been in communication for weeks, and was trying to evaluate whether or not the Zoning Board of Adjustment had purview over the location of an access road. Bonnie Barnes noted that John Bull had evaluated the situation and noted that Mr. Sullivan is improving or had improved an existing curb cut but that he was open to going out to see the site but was unaware of any specific violation. Bonnie Barnes explained that the Planning Commission has purview over the siting of roads if they are looking at a subdivision application, but this scenario was tricky. Bonnie Barnes explained that if there was a conditional use permit for extraction, the Zoning Board of Adjustment could place conditions on the hours of operation, quantity of extraction, traffic, and noise and so forth, however this permit may then apply to a number of landowners. Bonnie Barnes explained she was considering sending a letter to Mr. Sullivan noting to him the start of the permitting process, but wanted to understand the Board's point of view.

Norm Smith asked if other neighbors were extracting stone, and Mr. Redmond noted that they were, on a bigger scale as well. Norm Smith noted that if the Board were to take action in this way, it may impact a number of people. Mr. Redmond explained that he also had been extracting stone and sold it to a number of clients across the state. Mr. Redmond noted that he could put up a fence that was higher than four feet which may help mitigate the issue, but he understood that this would not be in accordance with zoning regulations. Mr. Redmond explained having a fence could be a good barrier that would meet a number of needs. Norm Smith explained that he was unsure of the fence regulations but this may be a solution and the Board was limited in their options, given their jurisdictional constraints and what precedent might be set with a conditional use permit. Bob Beach explained that the new zoning regulations had some language on extraction and they could ask for an appearance of Mr. Sullivan.

Bob Beach asked Bonnie Barnes about the new zoning regulations, and Bonnie Barnes explained that it seemed as though this extraction business could require a conditional use permit, but that she wanted to gain insight into this option before moving forward. Mr. Redmond noted he could understand if the Town had limitations, and Bob Beach asked how far Mr. Redmond would like to see the road moved. Mr. Redmond explained he could see other options for the road siting given the features on the property and he had been in contact with Mr. Sullivan on the matter, especially given the expansion of the size of the road.

Norm Smith explained that Bonnie Barnes would likely need to look into the matter further, given there is no current application. Bonnie Barnes explained the ease of a fence permit and that he would simply need to get the permit from her and pay the applicable fees, which Mr. Redmond noted he could plan a fence and it would likely not be very complicated. Mr. Redmond was thankful of the time and consideration.

**Approved on: June 2, 2021**

Norm Smith noted that there was a need for a Vice Chair as a back-up so that meetings could be run by a specific person in his absence. Dave Mentzer volunteered to be Vice Chair, which was agreeable to other Board members.

**Deliberations**

There being no further questions or agenda items, ***John Paul made a motion to close the public meeting, which was seconded by Diane Nadon and the motion passed unanimously. The public meeting closed at 8:11 pm. Katie Quinn moved to come out of Deliberative session, which was seconded by Diane Nadon.***

**Adjournment**

There being no further business, ***Katie Quinn made a motion to adjourn the meeting, which was seconded by Diane Nadon and the motion passed unanimously. The meeting adjourned at 8:16 pm.***