

# **Zoning Board of Adjustment**

## *Town of Ferrisburgh, Vt.*

APPROVED – Minutes for meeting of June 6, 2017

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

**Town official present:** Ken Wheeling, zoning administrator.

**Visitors:** Carol Allen, Bruce Beauregard, Judy Chaves, Aubrey Choquette, Carl Cole, Kim Daniels, Elizabeth DeGraaf, John DeGraaf, John Devos, Leigh Devos, Sue Devos, Andrea Dotolo, Jim Dumont, Mark Franceschetti, Mary Gordon, Mary Hamilton, Michael Hinsdale, Lane Kessler, William Ladue, Gene Lauer, Roxie Lauer, Barbara Lehner, Robert McKay, Al McKibben, Susan McKibben, Chris Melendy, Clara Charlebois Melendy, Jane Melrose, Thomas Miller, Liam Murphy, Janice Perry, John Pitrowiski, Leigh Phillips, Dave Pierson, Kurt Plank, Jeff Provost, Benjamin Putnam, Michael Totten, Ken Villeneuve, Florence Vincent, Raymond Vincent, Stephanie Warner, Stephen Warner, Nora Wright, Finn Yarbrough.

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

**Approval of minutes from May 3, 2017:** Norm Smith made a motion to approve the minutes from May 3, 2017, as submitted. Bob Beach seconded. Bob Beach, Mike Delaney, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow voted in favor. Rayne Herzog abstained. **Motion approved.**

### **HEARING No. 1**

**Application 17-035.** Application by the Lake Champlain Maritime Museum for a Conditional Use Permit to allow construction of an 18-foot by 12-foot open shed. The parcel is located at 4472 Basin Harbor Road in the Shoreland District (SD-2) and is identified in the Town of Ferrisburgh tax maps as parcel 07/01/07.1BO.

Charlene Stavenow opened the hearing at 7:05 p.m. Lane Kessler was present to speak for the application. He said the shed would be adjacent to an existing structure, which houses a sheet steel and bronze casting metal workshop. It will be used to house a foundry, donated to the Maritime Museum, which is an upgrade from a smaller foundry that the museum had been using. A builder is donating his time to put up the wood-and-steel structure, which will be anchored by footings at each corner. The shed will have no power or lighting. The foundry itself, which is portable, runs on propane. The foundry is expected to be used with a floor of sand, dirt or gravel. Dave Mentzer noted that the museum would probably need a permit from the Vermont Department of Fire Safety.

Dave Mentzer made a motion to close the public hearing at 7:10 p.m. John Paul seconded. All voted in favor. **Motion approved.**

Dave Mentzer made a motion to approve the application as submitted. Rayne Herzog seconded. Mike Delaney, Rayne Herzog, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow all voted in favor. Bob Beach abstained. **Motion approved.**

## HEARING No. 2

**Application 17-018.** Application by Thomas L. Miller for a Conditional Use Permit to operate a food trailer in a parking lot on the west side of Meigs Road, with the permission of the landowner, David Bannister. The property is located on Meigs Road in the Industrial District (IND-2) and is identified in the Town of Ferrisburgh tax maps as parcel 15/07/27.

Charlene Stavenow opened the hearing at 7:14 p.m. Thomas Miller and Barbara Lehner were present to speak for the application. They are hoping to set up a new business on the Meigs Road lot that will sell hamburgers and hotdogs grilled on site, cold drinks, and chips. Their plan is to set up the operation each morning and remove it the end of the day. They would bring a trailer to the site with cooking equipment, tables and chairs for seating, one canopy for the seating area and a larger canopy to cover the cooking area, when necessary. They will also have signage that can be removed each day. There is already parking on the site, as well as power. The applicants said they would operate from 9 a.m. to 3 p.m. each day, but might want to expand to serve dinner if all went well. Board members suggested and the applicants agreed to request longer operating hours from the start, from 9 a.m. to 6 p.m., rather than having to come back for expanded hours at a later date. Board members asked how often trash would be removed, and Miller said it would happen daily.

Rayne Herzog made a motion to close the public hearing at 7:25 p.m. Mike Delaney seconded. All voted in favor. **Motion approved.**

Bob Beach made a motion to approve the application as submitted, with the condition that trash will be removed from the site daily, and the hours of operation will be between 9 a.m. and 6 p.m. John Paul seconded. All voted in favor. **Motion approved.**

## HEARING No. 3

**Application 17-046.** Application by Mark Franceschetti for a Conditional Use Permit to construct a self-storage facility on a 2.1-acre parcel at 80 Old Hollow Road. The parcel is in the Village District (VIL-2) and is identified in the Town of Ferrisburgh tax maps as parcel 05/01/11.3.

Charlene Stavenow opened the hearing at 7:30 p.m. Mark Franceschetti and Carl Cole were present to speak for the application. A previous application for a self-storage facility on this parcel was withdrawn earlier this year. Cole said that in the new application, the storage units were moved further back from the road, and the overall square footage would be smaller. The access would be from Route 7. A cedar hedge, starting out at seven feet tall, would be planted to screen the project from Route 7, and an eight-foot-tall stockade fence

would separate the project from its nearest neighbor to the south, Marine Plus. The applicant is also willing to take other steps to screen the project from neighbors and passers-by, if the board felt it was necessary. The project would be phased in, with the first of three planned storage units built at the back of the property. The facility would be open to storage customers day and night, with any lighting operating from dusk to dawn, and downcast. Board members wondered whether the lighting could be on motion sensors so that the facility would be lit at night only when in use, and the applicant agreed to consider that possibility.

North Ferrisburgh resident Judy Chaves asked whether a self-storage facility was a permitted conditional use in the Village District. She said there was nothing in the zoning bylaws about this particular use, with the closest thing being a warehouse, which is not permitted in the Village District. She also brought a message from Craig Heindel, chair of the town's Conservation Commission, who said that his reading of the plans made it seem like a state stormwater permit would be required. Heindel also pointed out, she said, that there were new stormwater regulations taking effect in July, and that the town should insist on having this application meet the new regulations.

Al McKibben, who lives on Old Hollow Road, said he felt the intersection of Old Hollow and Route 7 was already problematic, and this facility would exacerbate traffic issues. He also talked about the strong community on Old Hollow Road, one of the earliest settled sections of Ferrisburgh. He discussed the history of the area, and recent efforts at neighborhood improvement, including a lower speed limit, new signs, banners and even flower boxes on the Hollow bridge. He said this project, at the gateway to the community, would affect all residents of the neighborhood.

Dave Mentzer asked the applicants if they believed the self-storage facility was a permitted use in the Village District. Carl Cole said he thought it should be, even if it is not specifically enumerated on the list of permitted uses. He pointed to other businesses nearby that don't seem to fall into existing permitted-use categories, and said it was impossible for the zoning bylaws to list every possible use. Cole also said that he was not sure the project would need a stormwater permit, but if so they would apply for one.

Charlene Stavenow said that a site visit would be required before acting on the application. Cole and Franceschetti said the new locations of the storage units would be staked out in advance of the visit. The hearing was recessed until the next meeting, on July 5, and the board scheduled a site visit at 6 p.m. on that date in advance of the meeting.

#### **HEARING No. 4**

##### **Application 16-129.**

Application by Christopher Gignoux on behalf of John Thompson and Susan Grimes for a Waiver to allow for a second story to be added over an existing footprint of a building at 204 Annex Road on Long Point. The parcel is in the Shoreland District (SD-2) and is identified in the Town of Ferrisburgh tax maps as parcel 99/99/99.105.

Charlene Stavenow opened the hearing at 7:55 p.m. Some information about the application was not available, so the hearing was recessed until the next meeting on July 5.

## **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 part-time employees and an outdoor truck wash area. The 9-acre lot is located on the north side of Tupper's Crossing in the Industrial District (IND-2) and is identified in the Town of Ferrisburgh tax maps as parcel 10/01/58.2.

Charlene Stavenow reopened the hearing at 7:58 p.m.; the hearing had been recessed at the meeting of December 7, 2016.

John Devos said that his family wants to separate their trucking business from their farming operation, which now share space on Greenbush Road, and had purchased the Tupper's Crossing property, which is in the Industrial District, with that in mind. He said they had done further work since the project was first presented at the end of last year. He introduced John Pitrowiski and Andrea Dotolo from Trudel Engineering, who gave a 20-minute slide presentation on the project.

They said the facility would include an 8,000-square-foot building, parking spaces for nine trucks and employees' cars, a truck-washing area, and an above-ground 5,000-gallon fuel tank for fueling the trucks. The entrance from Tupper's Crossing would now be on the west side of the property, which would improve the sightlines for trucks entering and leaving, and for drivers approaching the site on Tupper's Crossing. The site now has a stormwater permit, and plans for extensive landscaping to manage any runoff and screen the facility from the view of neighboring property owners. The project would include planting nearly \$8,000 worth of trees and shrubs. Light poles around the building had been shortened from 20 feet to 15 feet. The building itself will be 34 feet high at the roof peak and about 20 feet tall at the eaves. Its design is similar to that of the barn-like buildings recently constructed on Route 7 by Dock Doctors. A noise study has been completed which found that noise levels would not rise above the background levels on the site, which is not far from Route 7, except when trucks were leaving and entering. Trucks would leave in the morning and return in the afternoon, making only one trip to and from the facility each day. The tanker trucks deliver gasoline and diesel, but are typically empty when they leave and return to the site.

The plans for the site include a 50-foot buffer from Class 2 wetlands at the north end of the parcel and efforts to ensure that any runoff is naturally filtered before it reaches those wetlands.

John Pitrowiski pointed out that a freight terminal and an enclosed service and repair facility were both permitted uses in the Industrial District, and that the town plan specifically describes industrial development as important to bolster the local economy. He

called the proposed facility a low-impact, low-use light-industrial project that now has all the required permits, and plans to screen the project and protect the wetlands. He said the impact on traffic would be minimal, adding 40 vehicles a day to a road that now averages about 415 vehicles each day.

Finn Yarbrough, representing the Conservation Commission, said new state guidelines on wastewater management were taking effect this summer, and the commission had voted unanimously to recommend that this project adhere to the 2017 guidelines.

Jeff Provost of Dock Doctors spoke in favor of the project, saying he'd had a hand in developing the barn-like design for the building. He said he highly supported the project and recommended its acceptance.

Aubrey Choquette and Ken Villeneuve, who own a home on the northwest side of the intersection of Route 7 and Tupper's Crossing, presented an eight-page letter, with attachments, to the board detailing the reasons for their opposition to the project. They said the newly submitted plans lack measures to protect their property values and their quality of life. Their concerns include: an adverse impact on traffic and the town's roadways; a negative impact on the character of the neighborhood, which is now mostly residential and agricultural; reduction in air quality; and worries about the site's impact on the environment, specifically the wetlands which drain into nearby Little Otter Creek. They contend that site work done last year on the project, before a required permit was received, had violated both Ferrisburgh's zoning bylaws and state environmental rules. They conclude that the trucking facility represents heavy industry, rather than the light industry envisioned for this zoning district in the town plan.

Stephanie Warner, who lives directly across Tupper's Crossing from the project site, also presented a letter to the board, expressing her concerns about the hours of operation, noise levels, air quality, water quality, traffic safety, and the lack of a landscaping plan to sufficiently screen the operation from neighbors.

*[ Note that the letters mentioned above, as well as the detailed plans presented by the applicants, are available for review at the town office. ]*

Stephen Warner, Stephanie Warner's father, also lives across the street from the site and said he supports the project and believes that John Devos will be a good neighbor.

Resident Florence Vincent said she was a longtime neighbor of the Devos family's Greenbush Road farm and trucking business, and had never had any reason to complain. She felt that the family had purchased the property in the Industrial District with good intentions and that their property rights should not be taken away.

Ray Vincent, also a neighbor on Greenbush Road, said the Devos family had been wonderful neighbors, and that they keep up their trucks well so that they operate quietly and cleanly. He said the trucks go past his house early in the morning and he had never lost a minute's sleep because of them.

Resident Janice Perry said she was concerned about light and noise issues affecting the neighbors, and about the dangerous intersection of Tupper's Crossing and Route 7. Turning onto Tupper's Crossing from the northbound lane of Route 7 and turning south onto Route 7 from Tupper's Crossing are both difficult because of the speed of the traffic, and the limited visibility due to a rise that tops out just north of the intersection.

Janet Melrose, who lives at the intersection of Tupper's Crossing and Botsford Road, about a quarter mile west of the proposed facility, said that for much of the year, the deciduous trees between her property and the Tupper's Crossing site are bare, and provide little in the way of screening. She's concerned about the flood of light that will be visible, and also worried about noise levels, particularly during the early morning hours when trucks would be leaving the property.

Clara Charlebois Melendy, who lives on Route 7 across from the Tupper's Crossing intersection, said she didn't believe the noise study considered the noise levels that would be involved when trucks are starting up and leaving and entering the facility. She was also concerned about the traffic problems at the Tupper's Crossing-Route 7 intersection, and wondered about the impact of trucks leaving early in the morning.

Charlene Stavenow thanked all of the residents for sharing their thoughts on the application, and John Devos for the work that had gone into the proposal. She said the board had a lot of information to consider and that another hearing on the application was called for. She asked that the application be added to the agenda for the July 5 meeting. She noted that the board was dedicated to doing what's best for all parties and for the town.

**Adjournment:** Dave Mentzer made a motion to adjourn the meeting at 9:45 p.m. Rayne Herzog seconded. All voted in favor. **Motion approved.**

— Respectfully submitted,

Tim Etchells