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Minutes Approved on: Oct. 6, 2021

Zoning Board of Adjustment
Town of Ferrisburgh, VT

Approved Minutes for meeting of September 1, 2021

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

Participants present: Clark Hinsdale, Liam Murphy, Esq., Kevin Sullivan, Brian Goodyear

Approval of minutes from August 4. Norm Smith called the meeting to order at 7:00 pm and asked if Board Members had the opportunity to review the minutes. ***There being no requested changes or edits, Dave Mentzer made a motion to approve the minutes, which was seconded by Diane Nadon and the motion passed unanimously.***

In re Kevin J. Sullivan and Sarah Stradtner; property ID # 13/01/59.1; 2078 Jersey Street, Rural Agricultural (RA-5) district; appeal of Notice of Violation; adjourned from August 4, 2021 hearing.

Attorney Liam Murphy was present to speak to the appeal of the Notice of Violation on behalf of his client, Kevin Sullivan. Attorney Murphy explained that the letter received stated that Mr. Sullivan was selling stone from his property for profit and quarrying without a permit. Attorney Murphy presented on screen a series of Google Earth photographs and explained that the area around the property had a long history of quarrying what is commonly known as Panton stone. Attorney Murphy explained that the property was purchased by his client and before that time, was used for extracting stone. Attorney Murphy displayed photographs dating back to 1995 showing evidence such as paths, cuts, and hillside clearings. Attorney Murphy noted that historically, the removal had come in the form of taking stones that come off of the top of the earth. Attorney Murphy explained that the property had been improved by a home and a garage.

Attorney Murphy explained that when Mr. Sullivan purchased the property, there was a road improvement that allowed for better access on the north side of the property. Attorney Murphy continued that this road improvement led to the complaint and allowed for Mr. Sullivan to access the back of the property without going through the area around the house. Attorney Murphy noted that this road improvement was done without a permit, which is allowed and that his client was removing stone in the same manner that it had been for at least 25 years which is a continuation of a pre-existing non-conforming use. Attorney Murphy suggested a site visit be conducted and pointed out a few features from the photographs being presented. Attorney

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Murphy concluded with the explanation that there were large quarries in the north of the property and if Mr. Sullivan expanded to a larger operation that may warrant a conditional use permit, but the current operation was consistent in terms of what had been done on the property for years.

Norm Smith asked if Mr. Sullivan was carrying on the business of selling the stone on-site. Attorney Murphy explained that Mr. Sullivan has a landscaping business and had been removing the stone and using it for this business purpose. Attorney Murphy noted that Mr. Sullivan had not removed any further stone after the violation was issued in June and that his client had cleaned up the road. Attorney Murphy explained that Mr. Sullivan had no intent of selling the stone to third parties from the site and that the removal of the stone from the surface areas was to be used in the landscaping business which is not similar to how quarries sell directly from the property.

Norm Smith noted that he understood the stone was being used in connection with the landscaping business and asked if it was loose stone on the site and how the stone was being extracted. Attorney Murphy noted that he examined a machine that could push the stone off the top of the ground, and Mr. Sullivan confirmed that he excavated the stone which was loose and there was no blasting.

Dave Mentzer asked for clarification on how the road was cleaned up, and Attorney Murphy explained that when the road was laid down there was rock that had gotten placed alongside the roadway and that Mr. Sullivan had cleaned this up. Attorney Murphy explained that these were rocks along the field between the road and the woods and Mr. Sullivan noted that this was correct, and it was in the neighbor's view.

Mike Delaney asked how often Mr. Sullivan extracted stone, how often the road was used to take a load out. Mr. Sullivan explained that this was challenging to predict and that occasionally there would be a few months' time between loads being taken and other times it may be a few days at a time. Attorney Murphy asked if it was fair to say that on an average month it maybe five days per month and Mr. Sullivan confirmed. Attorney Murphy explained that the summer has more activity due to the landscaping business. Mr. Sullivan noted that the most activity was when the road was built which is what caused the initial issue due to multiple truckloads of stone being brought out to build the road.

Norm Smith asked if Mr. Sullivan had talked to the neighbor since June. Mr. Sullivan noted there was one complaint, when there was noise from Mr. Sullivan was cleaning up the stones as noted. Norm Smith asked if before the property was purchased, if there was any kind of landscaping or extraction of rock on an active basis in a similar fashion. Attorney Murphy clarified that there was no landscaping business, but there had been the extraction of stone off of the property in years past and pointed to the aerial photographs which showed paths and cleared areas over a period of 25 years.

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Diane Nadon asked what kind of equipment was used to remove the rocks and clean up the road, and Mr. Sullivan explained that it was an excavator and a small loader. Dave Mentzer asked if there was a permit for a home occupation, and Bonnie Barnes explained there was no permit and that the Sullivans do not live on this property so it would not be appropriate. Dave Mentzer asked if the property's sole use was for excavating stone and the landscaping business. Norm Smith explained that it was his understanding that there was a house on-site that was rented, which Mr. Sullivan confirmed.

Bonnie Barnes asked if during the cleanup of the material over the summer if there was storage of the contractor's yard building material or material in general and if it had ceased as of the time of the meeting. Attorney Murphy noted that in the field, between the road and the pond, there was storage of various materials with some being owned by Mr. Sullivan and other materials that had been owned by family members of the prior owner, but all had been removed. Attorney Murphy noted there was a compost pile still at that location, but that was from the grandson of the prior owners, and it was not a commercial use.

Norm asked the Board members if they felt the need to conduct a site visit, and there was consensus that this was not needed. There being no further questions, ***Dave Mentzer moved to close the public hearing, which was seconded by John Paul and the motion passed unanimously. The public hearing closed at 7:22 pm.*** Norm Smith explained that they would be discussing the matter in Deliberative Session, and they would issue a decision as soon as they could.

Application No. 21-128 (Hinsdale) to convert covered porch and deck into interior space; property ID #04/01/03; 225 Bay View Road; Shoreland (SD-2) district; conditional use.

Clark Hinsdale was present to speak to the application and explained that he had met with all of the neighbors prior to this appearance, and no one had appeared to speak at this meeting. Mr. Hinsdale noted that the application was for one of the eight camps on Bayview Farm, and it is quite close to the lake. Mr. Hinsdale explained that they had replaced the water and septic for all of the cabins in the spring and summer and there were three mound systems upland. Mr. Hinsdale pointed to the drawing that was submitted as part of the application and explained a few features including where the covered porch area was marked and where the water and sewer lines were coming into the camp. Mr. Hinsdale noted that they wanted to consolidate the plumbing close to where the sewer and water lines come into the camp and have a small area where the plumbing could be turned off and drained.

Mr. Hinsdale explained that this is a seasonal camp and the back porch had not been used since 2007 and that there was proper ingress and egress to the space. Mr. Hinsdale noted he had spoken with State Shoreland Protection, and they had determined that as it was an existing footprint it was exempt from their review and the total area impacted would be 91 square feet. Mr. Hinsdale noted he had had a few site visits with neighbors and had discussed the proposal with all of the neighbors and he had heard from nearly all of them. Mr. Hinsdale explained that the neighbors would not see this, and it would remain a one-story camp.

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Katie Quinn asked if this new space would be used as a utility room, and Mr. Hinsdale clarified it would be a bathroom, and explained some features of the camp noting that no other parts of the camp would be changed but this would help consolidate plumbing. Katie Quinn asked what would happen to the old bathroom and Mr. Hinsdale explained that this would likely be turned into a closet. Mr. Hinsdale briefed the Board Members on some of the changes in the business model noting that they were mainly focused on longer-term stays and allowing more people to stay in the cabins due to the water and sewer upgrades.

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 7:30 pm. Dave Mentzer moved to approve the application as submitted, which was seconded by Norm Smith and the motion passed unanimously.***

Deliberative Session

Dave Mentzer made a motion to enter into Deliberative Session, which was seconded by Norm Smith and the Board entered into Deliberative Session at 7:32 pm.