

Zoning Board of Adjustment
Town of Ferrisburgh, VT

Minutes for meeting of October 7, 2020

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

Members present: Norm Smith (Chair), Bob Beach, Mike Delaney, Dave Mentzer, Diane Nadon, Katie Quinn, John Paul

Town official present: Bonnie Barnes, Zoning Administrator

Participants present: Ryan Sheehan, Arabella and Roger Holzapfel, Meg Langworthy, Jeff and Wendy Tweedy, Patricia Connelly, Mildred Reardon, Bob and Jules Ashkinaze, Ed Schinik, Sarah Ashkinaze, Patrick McDevitt, Grace Brady, Mary Martin, Mark Franceschetti, Carl Cole, Shelley Erickson, Ed Prezzano, Scott Brace, Debbi Smith, Jen Hill, Nichole Clement, Sarah Beers, Deb Healey, Craig Heindel, Tom Cucciniello

Approval of minutes from August 5, 2020 and September 2, 2020. Norm Smith called the meeting to order at 7:05 pm and noted the first order of business was to approve the meeting minutes from the past two meetings. Norm Smith asked if there were any questions about the minutes. There being none, ***Katie Quinn made a motion to approve the August 5, 2020 meeting minutes, which was seconded by Dave Mentzer and the motion passed unanimously. Dave Mentzer moved to approve the September 2, 2020 meeting minutes, which was seconded by Mike Delaney and the motion passed unanimously.***

Application #20-100 (Sheehan) for Home Occupation II permit to operate off-premises excavation business with on-site storage of equipment; property ID #14/01/36.1B; 1335 Sand Road; Rural Agricultural (RA-5) District; conditional use; continued from September 2 hearing.

Norm Smith noted that the Board had conducted a site visit and asked Mr. Ryan Sheehan to explain his application. Mr. Sheehan noted that he would like to use his home to park his equipment and excavation system on the property which includes a few excavators and other equipment, and some materials including pipe, stone, and a load of winter sand. Dave Mentzer clarified that this is an application for a Home Occupation II permit, and that this does not include the adjacent businesses so this is for operations associated with the excavation business only. Bob Beach noted that on the site, there are two permanent dwellings with shared garages that have their own businesses, but that is not associated with this matter.

A neighbor, Arabella Holzapfel noted that they do not see any issue with this application, and would like to welcome Mr. Sheehan to the neighborhood. Another neighbor, Meg Langworthy noted that she appreciated the letter that Mr. Sheehan wrote, and that as currently operating,

there is a low impact to the neighborhood and she understands that if there is an expansion, Mr. Sheehan would talk to the neighbors first.

There being no other comments from the neighbors or the Board Members, ***Diane Nadon made a motion to close the public hearing at 7:15 pm which was seconded by Bob Beach and the motion passed unanimously.*** Norm Smith clarified that the Board Members would be discussing the application during the deliberative session and the Board will get a decision out as quickly as possible.

Application #20-093 (Comeau) to erect a deck/camper platform; property ID #20-093; 267 Summer Point; Shoreland (SD-2) and Rural Agricultural (RA-5) Districts; conditional use; continued from September 2 hearing.

Clara Comeau (Ziggy) was present to speak to the application and noted that she placed two platforms on her property by the lake, and that when the hurricane came through, one of the platforms was damaged and while she was unaware that she needed a permit to repair the one platform, she was present to speak to the application which was filed to repair the platform.

Norm Smith noted that the Board had received the letter from the neighbors' attorney which noted the issue of how long the travel trailer could be left on the lot, citing the Town's Zoning Code, and asked if Ms. Comeau could address that. Ms. Comeau noted that when she acquired the property, there were two campers on the property, one of which was very damaged. Ms. Comeau explained that the hurricane further damaged one of the campers and brought a lot of trees down on the property but that one of the campers was kept. Norm Smith asked how long the campers had been there when she purchased it, and Ms. Comeau estimated that they had been there for 15 or 20 years. Norm Smith asked if there were pictures noting such, and Ms. Comeau noted she did not have any pictures, but at the time she had asked the zoning administrator if there were any restrictions and the zoning administrator at the time had advised that she move the campers every 14 days to comply with the code and that as they were pre-existing she did not need a permit.

Dave Mentzer asked Ms. Comeau of the intent of the campers, and how long she would stay in the campers on the property. Ms. Comeau noted that the only person using the one camper is her and that her son would use the other camper and that she usually will only stay 2-3 days at a time at a maximum and that she does not use these as living quarters but would occasionally bring her children or grandchildren down to visit. Bob Beach asked when she acquired the property, and Bonnie Barnes noted that she believed it was in 2006, Bob further inquired if campers were present at that time, and Ms. Comeau noted that there were. Katie Quinn asked if the deck was to come out from the camper, and Ms. Comeau noted that it was to come out and they would not be sitting on the decks and that they would sit roughly four inches off the ground so that they had something to walk on. Bob Beach asked if the pre-existing campers were owned by the previous owner of the property, and Ms. Comeau noted she was not sure, but that one was in very poor condition and that it worsened after the hurricane.

Norm Smith opened the meeting for questions from the neighbors, and asked that Jeff and Wendy Tweedy speak first. Mr. Tweedy pointed out that the previous owner tried to build a boathouse which was denied, and he was unaware of any campers existing on the property when the previous owner was there. Mr. Tweedy noted that he was in favor of the Board denying the application and enforcing the code, given that the Town Zoning Code notes that a camper can only be on the property if there's an existing building which it must be placed behind and also pointed out that he and other neighbors had submitted a depth of material on the topic that he would like the Board to take into consideration.

Norm Smith pointed out that the Board can approve or deny permits, but that they are not an enforcement body. Norm Smith asked if Bill and Samantha Risen were present, which they were not. Norm Smith asked if Sarah Beers was present, which she was not. Wendy Tweedy noted that some of the neighbors may not be present as they thought that the application was being tabled until the Spring, which Norm Smith clarified that Ms. Comeau was interested in proceeding.

Patricia Connelly noted that she was aware of the confusion with the meeting, and that in her experience, there were no campers on the property in the past 16 years until Ms. Comeau put the campers on the property. Ms. Connelly explained that she was aware of the hurricane's impacts, the tree clearing, and also noted that she did not think Ms. Comeau was using the site as living quarters and that the decks proposed were likely going to be the length of the camper as that is what they had been in the past.

Mildred Reardon noted that she had been in the area since 2004 and she was aware that the previous owner used to have a tent on a deck in the woods, but that there wasn't any activity until Ms. Comeau purchased the property in 2006 and that the trees were taken down about a year ago, there was work done on the property, and the campers were placed. Norm Smith asked if the Schinik were present, and invited Bob and Jules Ashkinaze to speak instead. Mr. Bob Ashkinaze noted he had been in the area for 50 years, and that he remembers a vessel being parked on the property, but never campers until Ms. Comeau came onto the property. Mr. Ed Schinik wrote in the chat that he had property since 2003 and there were no campers on the property. Sarah Ashkinaze noted that her only recollection is a dilapidated boat on the property.

Norm asked if Ms. Jill Boardman was present to speak, which she was not. Norm Smith asked if the Izzos were present, or Grace Brady. Grace Brady noted that she agreed with the other statements about campers not being present and that her concern relates to potential flooding on the site and the treatment of sewage given how many people may be on the site using water and sewage systems. Norm asked if Peter Davis or Alan Calfee were present, and Alan Calfee noted he agreed with the other neighbors. Mr. Tom Cucciniello noted that he was concerned with the trees being cut down without a permit, but that he agreed with the other neighbors.

Mr. Patrick McDevitt asked Dave Mentzer to clarify his line of questioning and Dave Mentzer noted he was trying to suss out the fact that she is parking the camper on site and how long she was planning to occupy the site. Mr. McDevitt noted that he encouraged the Board to consider

how long the camper would be there regardless of time occupied and also asked if there is no principal building, where do the regulations point out how long the camper can stay. Norm Smith noted that they will try to address this question.

Norm Smith asked if Ms. Comeau had any response, and Ms. Comeau noted that the campers are self-contained and that she has only been occupying the campers a few days a week and occasionally overnight.

Diane Nadon referred to the neighbor letters and asked Mr. Tweedy that if he was interested in a restoration to original conditions, what that may mean. Mr. Tweedy clarified that given the regulations referring to a camper being allowed only for fourteen days and also that this was present without a principal building, he thought the remedy was the removal of the campers, the deck being taken down, and filling appropriately if needed. Bob Beach asked if this was being tabled, and Ms. Comeau clarified that she was interested in this moving forward. Neighbor Mary Martin noted that she would ask that the neighbors be cordial and polite and that she believes there is a possible resolution that can be done fairly.

There being no further questions from the Board or neighbors, ***Diane Nadon made a motion to close the public hearing at 8:05 pm, which was seconded by Dave Mentzer.***

Wendy Tweedy asked Ms. Comeau about the application and if she had been confused about the placement of the previous campers and which property it may have been on, which lead to a discussion on the completeness of the application. Bonnie Barnes noted that they did not currently have a map of where things will be located in the future, which means that the application could be deemed as incomplete. Bob Beach noted that the application, for this reason, likely cannot proceed.

The motion to close the hearing did not pass. Norm Smith asked Ms. Comeau to submit detailed plans showing where the proposed decks would be placed, and where the campers would be placed. Katie Quinn noted that the size of the decks and the property lines with setbacks is particularly important. Dave Mentzer noted that the site plan, the use, and the schedule for occupancy and storage on site of the campers is desired.

Mildred Reading asked if the camper can be removed, and Ms. Comeau, by request of Norm Smith, noted that she is working on removing them in the coming days. There was re-clarification of the points that need to be shown on the site plan, and ***Katie Quinn moved to continue the hearing at the next scheduled meeting, which was seconded by Dave Mentzer and the motion passed unanimously.***

Application #20-112 (Franceschetti) for two additional self-storage buildings; property ID # 18/20/71; 14 Old Hollow Road; Village (VIL-2) District; conditional use.

Norm Smith introduced the application and noted that Mark Franceschetti and Carl Cole were present. Norm Smith clarified that this is the same application that was reviewed in June and

July and that a decision was rendered based on use, and that Mr. Franceschetti was willing to give up the use of an apartment in the house to accommodate the issue discussed.

Carl Cole noted that there were no indications of any issues and there was nothing in the minutes indicating there are any concerns. Norm Smith noted they may want to put conditions on the approval, and also inquired what would happen with the apartment so that there's confirmation it won't be an apartment again in the future.

Mr. Franceschetti noted that he would be making this into an office for himself, likely and that while one tenant had moved out, the apartment was currently occupied, and he was having conversations with the current tenants to see if they would be interested in the other apartment. Mike Delaney asked where Mr. Franceschetti's current office is, and Mr. Franceschetti noted it is in the barn and he was open to using the space no longer used for an apartment as his office given that it has septic. Dave Mentzer clarified that the Board is counting uses and wanted to make sure that the land is not overdeveloped for the location.

Mike Delaney clarified that the apartment is not vacant, but that it may be prudent to grant the permit only when it is vacant so that the use can't continue. Carl Cole suggested that Bonnie could determine the vacancy at the time that she grants the certificate of compliance. Norm Smith noted that there was no intent to make things challenging for the applicant.

Given that there were no questions from the Board Members or members of the public, **Bob Beach made a motion to close the public hearing at 8:24 pm which was seconded by Diane Nadon and the motion passed unanimously.** Norm Smith noted that they would discuss this application further during deliberative session. Carl Cole noted that while he did not have any particular say in the matter, he was interested in the outcome of the camper conversation given the quantity of the campers around Town.

Application #20-113 (Brace) to erect shed on non-conforming lot without the required setback; property ID #09/01/44; 2462 Sand Road; Rural Agricultural (RA-5) District; waiver.

Norm Smith introduced the application and Mr. Scott Brace noted he was looking to build a 20 foot by 40 foot lean-to type shed in his backyard for storage. Mr. Brace noted that when he measured the siting today, he realized that it would be 34 feet away from the property line instead of the originally proposed 25 feet.

After discussion, it was determined by Norm Smith and Bonnie Barnes that Mr. Brace should submit a new detailed drawing displaying the distances and dimensions, but that with the 34 foot setback, Bonnie can issue the permit without a waiver.

Application #20-115 (Eriksen) to remove trailer and 4 outbuildings and build one-bedroom home with attached garage plus detached one-bedroom accessory dwelling unit; property ID #08/01/58; 58 Riverview; Conservation (CONS-25) District; conditional use.

Norm Smith introduced the application and Ms. Shelly Erickson was present to speak to the application. Ms. Erickson noted that the trailer was manufactured in 1951 and is a two-bedroom that is very dated and needs to be replaced. Ms. Erickson noted that the four outbuildings are very old and falling in and need to be taken down as they are an eyesore. Ms. Erickson explained that the plan is to construct a two-bedroom primary dwelling as well as an accessory residential building that would be a bungalow or cottage.

Diane Nadon asked if they would be living there or renting the structures, and Ms. Erickson noted that they were intending to build these structures for her mother and a seasonal worker associated with their marina. Bob Beach clarified that the application is to take down all of the five buildings currently on-site and Ms. Erickson noted that some of the buildings were associated with the previous owner and all in bad shape. Diane Nadon asked when the property was purchased, and Ms. Erickson noted that it was 6 or 7 years ago.

Norm Smith asked about the photos submitted, and Ms. Erickson noted all of the buildings would be removed in the photos as well as the septic. Ms. Erickson clarified that the proposal, given a survey was to place the new buildings 25 feet away from either side's property line and 80 or 90 feet away from riverfront. Mike Delaney noted he would like to see renderings to get a feel for the buildings and to get a sense of the height. Ms. Erickson noted that one building would be one story, and the other would be two stories with a basement and that she intended that these structures exist harmoniously with the neighborhood. Mike Delaney asked about siding and roofing materials, and Ms. Erickson noted her plans to use vinyl siding and asphalt roofing.

Craig Heindel, Chair of the Ferrisburgh Conservation Commission noted that while the Conservation Commission had not had a chance to meet and discuss the application, they wanted to ensure that the structures would not be in the floodplain given that some of the property is on the floodplain and pointed out some considerations about the 100 year floodplain and the high-velocity areas.

There was discussion around neighboring properties and their elevations, and Craig Heindel pointed out that a LOMA letter (letter of map adjustment) would provide clarity on whether or not this property was in the floodplain. Craig Heindel noted that it seemed that the property may not be in the floodplain and that he was supportive of a new septic system that could greatly improve the water quality. Craig Heindel also noted that the Board should look at the impervious surfaces proposed on the lot as it seems like there is more coverage with this proposal and that this does not seem to be in the shoreland district.

Deb Healey noted that other properties in the area had gotten LOMA letters, and Ms. Erickson pointed out that they had gotten a LOMA letter for 188 Ferry Street. Ms. Erickson noted that they have engineers working on this project and Craig pointed out that the engineers who are working on the septic could likely work on the LOMA letter.

Norm Smith noted that while future conversations may include the types of structures on the property, a LOMA letter would be a good starting point as that will clarify other types of review such as flood hazard. Dave Mentzer noted he did not think lot coverage is a big issue given the size of the lot. Mike Delaney noted he would like to see a more detailed footprint with exact measurements of structures, elevations, and dimensions. Norm Smith noted that drawings of what these will look like would be desired and that when the surveyor was working on the plans, he may be able to draft this up as well.

Ms. Erickson clarified that she needed to submit drawings and Mike Delaney noted that this could be from the builder. Ms. Erickson asked if she would need to wait for another meeting and then thirty days beyond that. Norm Smith noted that as no one has showed up opposing, which both Craig Heindel and Deb Healey confirmed that they were not opposed, Ms. Erickson might be able to avoid the 30-day waiting period if there was a signed letter from the neighbors noting no opposition.

There being no further questions, ***Bob Beach made a motion to continue the hearing at the next scheduled meeting, which was seconded by Katie Quinn and the motion passed unanimously.***

DELIBERATIVE SESSION

The Board entered into deliberative session at 8:59 pm. ***Dave Mentzer moved to adjourn the meeting, which was seconded by Diane Nadon and the meeting was adjourned at 9:41 pm.***