

Zoning Board of Adjustment
Town of Ferrisburgh, Vt.

FINAL – Minutes for meeting of December 7, 2016

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

Town official present: Ken Wheeling, zoning administrator.

Visitors: Carol Allen, Dan Berry, Aubrey Choquette, John Degraaf, Abby Dery, Jim Dumont, Andre Emmell, Jon Erickson, Pat Erickson, Shelly Eriksen, Tom Eriksen, Jane Melrose, Karen Pettersen, David Pierson, Kurt Plank, Ken Villeneuve, Stephen Warner, Lisa Watkins, Malcolm Willard, Finn Yarbrough.

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

Approval of minutes from November 2, 2016: Bob Beach made a motion to approve the minutes from November 2, 2016, as submitted. Norm Smith seconded. Bob Beach, Dave Mentzer, John Paul, Norm Smith and Charlene Stavenow voted in favor. Rayne Herzog abstained. **Motion approved.**

HEARING No. 1

Application 15-025. Application by Malcolm Willard for a Conditional Use Permit to replace an existing guesthouse with a two-bedroom, two-bath residence. The property is located at 505 Sunset Lane in the SD-2 District, identified in the Town of Ferrisburgh tax maps as parcel 19/20/14.2 & 14.3.

At 7:05 p.m., Charlene Stavenow reopened the hearing, which had been recessed in March 2016. Malcolm Willard was present to speak for the application. He provided elevations and floor plan drawings that had not been available in March. Charlene Stavenow said the board had received a copy of the necessary shoreland permit. Willard said he was in the process of applying for a wastewater permit and would provide it to the board. He also noted that he would be drilling a new well for the building, rather than sharing with another building on the property. Board members asked about lighting, and Willard said it would be minimal and downcast. There was no public comment.

John Paul made a motion to close the hearing. Rayne Herzog seconded. All voted in favor. **Motion approved.**

Dave Mentzer made a motion to accept the application as submitted, with the condition that any additional lighting would be downcast. Norm Smith seconded. All voted in favor. **Motion approved.**

HEARING No. 2

Application 16-134

Application by Shelly and Tom Eriksen for a Conditional Use Permit to construct a 60-foot by 100-foot storage building—a pole barn—on their commercial site. The 10.2-acre property is located at 2200 Basin Harbor Road in the RA-5 and Conservation Districts. The property is identified in the Town of Ferrisburgh tax maps as parcel 08/01/71.2.

Charlene Stavenow opened the hearing at 7:12 p.m. Property owners Shelly and Tom Eriksen were present to speak for the application. Their plan is to build a pole barn to use for winter boat storage at their existing marina on Otter Creek. They shared with the board two possible locations for the building on their property. After hearing feedback from the board, they decided to go with a location on the back of their lot, nearer to the creek.

They said the construction and appearance of the building would be in keeping with other structures on the property. It would be enclosed on all four sides, with 12-14-foot walls and overall height of about 30 feet. The project will require minimal improvement to the lot. Some gravel may be added to connect an existing roadway to the new building. Board members asked how close to the creek the building would be, and the Eriksens said it would be about 200 feet. The board asked that the building location be staked out so that they could see exactly where it would be, and the Eriksens agreed.

Rayne Herzog made a motion to close the hearing. John Paul seconded. All voted in favor. **Motion approved.**

Dave Mentzer made a motion to approve the application, with the condition that the position of the building be staked out, that the building be no closer to Otter Creek than the state-required 100-foot setback, and that any lighting be downcast. Bob Beach seconded. All voted in favor. **Motion approved.**

Charlene Stavenow asked the Eriksens to let Ken Wheeling, zoning administrator, know when the building location had been staked out.

HEARING No. 3

Application 16-146

Application by Mary Lou Ivey for a Conditional Use Permit to construct a screen porch above an existing porch. The 0.01-acre property is located at 241 Shore Road on Long Point in the SD-2 District and is identified in the Town of Ferrisburgh tax maps as parcel 99/99/99.020.

Charlene Stavenow opened the hearing at 7:29 p.m. Dan Berry, builder, was present to speak for the application. He described the project as adding a second floor to an existing sunroom porch. The 12-foot-wide second floor screened porch would run the full length of

the existing building, about 35 feet. It would not increase the building's footprint. There would be sliding glass doors from the existing second floor living space to the screened porch. Board members asked about finish materials for roof and siding and Berry said they would be the same as those on the existing structure. He also said there would be no additional lighting.

Rayne Herzog made a motion to close the hearing. Bob Beach seconded. All voted in favor. **Motion approved.**

Rayne Herzog made a motion to approve the application as submitted, as long as the applicant supplied the actual square footage of the new porch. Norm Smith seconded. All voted in favor. **Motion approved.**

Charlene Stavenow asked Berry to give the dimensions to Ken Wheeling when available.

HEARING No. 4

Application 16-147

Application by Harve M. Lewis for a Conditional Use Permit to alter the interior configuration and add a "pop-up" bedroom, in the existing footprint, at the rear of a house located at 98 South Road on Long Point. The 0.01-acre property is in the SD-2 District and is identified in the Town of Ferrisburgh tax maps as parcel 99/99/99.079.

Charlene Stavenow opened the hearing at 7:35 p.m. Dan Berry, builder, was present to speak for the application. He said the project would involve raising the roof to convert the upstairs of the house to a master bedroom with bath. The house will still have three bedrooms. Charlene Stavenow said the board had received the state shoreland permit and Long Point approval for the project. Board members asked about building materials, and Berry said the roof would be shingled like the rest of the building, while the siding would be vinyl, since the owner is planning to convert the rest of the house, now cedar clapboards, to vinyl. It would remain a light, neutral color. Board members said they would like to see a drawing of the project before signing off. They agreed that they could provide conditional approval and Berry agreed to provide a drawing by December 8.

Norm Smith made a motion to close the hearing. John Paul seconded. All voted in favor. **Motion approved.**

Dave Mentzer made a motion to approve the application as submitted, on the condition that a drawing be submitted and signed off on by the board, that the building not exceed height limits for Long Point, that the addition be within the existing footprint of the building, and that any new lighting be downcast. Bob Beach seconded. All voted in favor. **Motion approved.**

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

Charlene Stavenow opened the hearing at 7:45 p.m. Abby Dery of Trudell Consulting Engineers and John DeVos were present to speak for the application. DeVos said the project involved moving his trucking business from his farm on Greenbush Road, where it has been located for more than 30 years, to Tupper's Crossing. He said the business was outgrowing the space available on the farm and the Tupper's Crossing location, which has access to Vergennes city water, seemed to be a good fit. Abby Dery said the project would include the 8,000-square-foot building as well as parking for trucks, on the west side of the building, and for employees. She said the area around the building would be fenced and gated for security. The building would include downcast lighting fixtures on the exterior and there would be light poles in the parking lot, also with downcast fixtures. She said trees would be planted on the east and west sides of the building. There would be an above ground fuel tank for refueling trucks. She said the project has a state stormwater permit. The truck washing facility would be limited to 30 trucks per week. Run-off would go down a shallow slope on the north side of the building with a vegetated surface, which she said is the same run-off management system in use at the Ferrisburgh town garage.

The interior of the building would be used for changing tires, oil changes, and other light repair work, with storage for tools and truck parts, an office area and bathroom facilities. Used oil would be disposed of in a waste-oil furnace that would provide heat for the building. Doors would be located on the south and west side of the building. John DeVos said the trucks would be empty when leaving and arriving at the facility and that trucks would not weigh more than about 26,000 pounds. He said in 32 years on Greenbush Road he had never had a complaint from neighbors about noise or anything else. In response to board questions, he said some lights would probably need to be on all night for security purposes but that others could be on motion sensors or timers so that they were only on when needed.

Charlene Stavenow then opened the hearing to public comment. Stephen Warner, who has lived on Tupper's Crossing, across the street from the site, for 35 years said he had no objection to the project. He said there was already a good deal of truck traffic on the road. He did say he would like to see the speed limit reduced.

Aubrey Choquette spoke for himself and Ken Villeneuve, whose lot on Route 7 is separated from the Tupper's Crossing parcel by a 60-foot right-of-way. He said they had numerous objections to the project. One concern is that a large industrial building and associated infrastructure would alter the character of the area. He said while the property in question

is zoned industrial, the town plan and zoning bylaws envision light industry, and this seems more like heavy industry. He said the drawings seem to show a building higher than the maximum of 35 feet, and that light and glare from the project would be a constant problem. He suggested a great deal of material had already been moved on the property, through what he called mining of the land's shale deposits, and that the owners had not received a permit for that work. He said trees that appear on the plan would be planted well below the level of the building site, and would do little to screen the building from Route 7. He said the application did not address noise rules in the town's zoning bylaws, which require that the noise level be 70 decibels or below at the property line; diesel trucks, he said, operate at 80-90 decibels. He is also concerned about air quality, with the burning of waste oil and idling trucks, about possible groundwater contamination from the truck washing run-off, and about increased traffic. He said the project would affect the resale value of their property, which while located on Route 7 does have sweeping views to the west of the Champlain Valley and the Adirondacks. He asked the board to deny the application as incompatible with the surrounding area.

Jim Dumont, an attorney representing Choquette and Villeneuve, asked that the board grant his clients interested party status. He said that in this case the applicant bears the burden of proof that the project will not alter the character of the neighborhood. He said the application did not address many issues required to grant a conditional use permit, such as the increased truck traffic turning off Route 7 onto Tupper's Crossing, the nearby railroad grade crossing, and the blind uphill approach to the property from the west. He also asked that the permit be denied.

Resident Kurt Plank said that the shale extraction that had already taken place at the site required a zoning permit. He asked about the size of the fuel tank being considered, and was told by DeVos that it would be 4,000 gallons. Plank said he believed any tank over 550 gallons tips the project into heavy industrial usage. He said the project needed the board's scrutiny and careful review of the impact it will have on this largely residential area.

Rob Stearns, who said his mother owns two mobile homes on a lot to the west of the Tupper's Crossing parcel, said they had no objection but hoped that there would be more plantings on the west side of the parcel to mitigate noise and view issues.

Liam Murphy, an attorney with Murphy Sullivan Kronk, attended the meeting to represent neighboring property owners Dave Pierson and Jane Melrose, who now own what was the Bodette farm just to the west of the project site, at the corner of Tupper's Crossing and Botsford Road. Murphy called the application "skinny," and said it did not address many of the criteria for a conditional use permit. While the land is zoned industrial, he said, the neighborhood is mostly rural residential, and that character would be affected by the project. He too was concerned about the pre-development work that was done without a permit. He said the project could be made less objectionable if some thought was given to landscaping, such as constructing large berms with plantings to the east and west to mitigate noise issues and damage to the view from Route 7 and Botsford Road, and locating the driveway so that it did not offer a direct view of the front of the building. He suggested imposing hours of operation similar to those for the new gas station on Route 7, which is

not allowed to operate from 11 p.m. to 5 a.m. He said the board should ask the applicants to come back with a new application that includes a noise study, and that addresses the many criteria for a conditional use permit. He said if the board was to approve the application, it should impose conditions that would protect the neighbors and the neighborhood.

Karen Pettersen said she was attending the meeting as a member of the town's Conservation Commission, and that the commission's chair, Craig Heindel, had asked her to say that the commission would like to be able to review the project. One particular concern, she said, is that the parcel includes a stream that drains into Little Otter Creek.

David Pierson, the owner of the former Bodette farm, said the project didn't seem to be the right fit for the area. He also said it didn't make sense to approve this project for Tupper's Crossing unless you were going to improve the road to handle the increased truck traffic. He said he was also concerned about noise levels with diesel trucks starting up at all hours. He said he owns a 1790s farmhouse, and he can't move it, adding, "This doesn't need to be here."

John DeVos said it was likely Tupper's Crossing would be completely redone as part of the Vermont Green Line power project. He said all of the trucks do not fire up at the same time. As for hazardous materials, he felt the operation would be no more dangerous than washing a car parked in a driveway. He again noted that he had never had complaints about noise, or anything else, in his many years on Greenbush Road.

Resident Carol Allen said she hoped the board would be able to get answers to the questions raised by the board and the public before making its decision.

Board members asked Abby Dery and John DeVos if they could provide those answers at a future meeting. Dery felt she would be able to address landscaping and other issues. Charlene Stavenow then recessed the hearing until the next meeting of the board on February 1, 2017. She said the applicant would need to address the public's concerns, and suggested they take them very seriously. She also said the board would schedule a visit to the site after the next meeting.

After a brief discussion among board members, Norm Smith made a motion to grant interested party status concerning the JSLC application to Aubrey Choquette and Ken Villeneuve. He noted the status did not affect their ability to participate in zoning board meetings—something they were already allowed to do—but that the status might be of use during any appeal of a board decision. John Paul seconded. All voted in favor. **Motion approved.**

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Tim Etchells