

**DRAFT MINUTES
APPROVED ON:**

**TOWN OF FERRISBURGH
ZONING BOARD OF ADJUSTMENT
MINUTES
WEDNESDAY March 5, 2025
At Town Offices and on Zoom**

Members Present: Norm Smith (Chair), Mike Delaney, Katie Quinn, Diane Nadon

Members Absent: Bob Beach, Dave Mentzer (Vice Chair), John Paul

Minute Taker: Robyn King

Town staff present: Katie Hill, Craig Heindel; Conservation Commission; Jean Richardson, Planning Board

Applicants present: Rick Benson, Nan Benson, Dan Berry, Tia Aiello, Tyler Peters, Ken Orben, Charles “Chuck” Marshall

Others present: None

1. Meeting was called to order at 7:00 pm by Norm Smith, and Quorum determined.

Minutes of February 5th were reviewed and it was noted that although Diane Nadon was not present, there was quorum for the minutes. Katie Quinn moved to approve the minutes, which was seconded by Mike Delaney and the motion passed unanimously.

2. **Application Number 25-002: Conditional Use Review; Home-based licensed childcare center; Applicant: Tia Aiello; Parcel ID number 16/01/19.2; 404 Pea Ridge Road; Rural Agricultural District (RA-5) and Conservation District (CON-25).**

Norm Smith introduced the application. Robyn King noted that she had an affiliation with the application given that she had submitted an application for her daughter to attend the pre-school and Norm Smith indicated that the minute-taking could proceed. Tia Aiello noted that she had a registered daycare and as she was planning to accept a few more children, she needed a permit to expand.

Mike Delaney asked if there would be changes to the property, and Tia Aiello explained that there would be none, but there would be four more additional children increasing it from 6 to 10. Katie Quinn asked the difference between registered and licensed and Tia Aiello explained that it increased the amount of children able to be cared for. Katie Hill clarified that while caring for 6 children is a permitted use, more than 6 is a conditional use, and hence the review. Norm Smith asked about drop-off traffic and Tia Aiello clarified that the drop-offs are staggered with usually no more than 2 parents coming in at a time. Norm Smith asked about the location of the preschool in the home, and means of egress. Tia Aiello confirmed it was in the basement and that there were three sets of egress. Norm Smith asked about inspections, and Tia Aiello indicated that there was both a state and Fire Marshall inspection. There was discussion over the parking, with Tia Aiello showing the circular driveway which accommodated incoming drop-off traffic.

Craig Heindel stated his involvement on behalf of the Conservation Commission and said that there was enthusiastic support given the property’s location adjacent to the conservation zone

and ability for children to be exposed to wildlife. Craig Heindel further noted an interest in understanding the wastewater and water supply changes that would need to be made in order to accommodate this use. Tia Aiello explained that she had a new system put in that was sized for this use. Norm Smith asked if this was included in the file, and it was recommended that a copy be submitted for inclusion. There was no one from the public to comment on the application.

MOTION was made by Diane Nadon to close the public hearing, which was seconded by Katie Quinn.

VOTE: All in favor. Public hearing closed at 7:07 pm.

MOTION was made by Diane Nadon to approve the application as submitted, which was seconded by Mike Delaney.

VOTE: All in favor. Motion passed.

3. Application Number 25-009: Conditional Use Review; Demolish existing garage and build new garage in a different location; Applicants: Kenneth & Christine Orben; Parcel ID number 99/99/99.023; 200 Shore Road; Shoreland District (SD-2).

Dan Berry was present to speak to the application and Ken Orben was present. Dan Berry explained that the application was to take the existing garage and move it to the area that the Long Point Association has set aside and designated for these kinds of uses, primarily garages for residents. Katie Hill explained that the entire Long Point Association lot was already over the 20 percent lot coverage threshold and they are slightly increasing the area of the garage and was not sure how this would factor in. Katie Hill noted that the leased lot is roughly 26 percent if combining the camp lot and the lodge lot where garages are located. Dan Berry noted dimensions of the new structure to be 18 feet by 22 feet which is an increase from 15 feet by 22 feet and that there would be 3 feet of buffer on the new lot, which is surrounded by nature trails. Dan Berry indicated that the structure would be 4 feet further from the lake than the current location.

Mike Delaney asked if the garage was not currently on the owner's property. Dan Berry explained that 26 camps have a leased lot and there are 4 garages and septic tanks that can't fit on those properties in this larger lot designated for this use. Norm Smith asked what materials they intended to use for construction, and it was clarified that it would be a concrete slab, vinyl siding, and asphalt roofing to match existing structures. Mike Delaney asked about lighting, and Dan Berry indicated there would be no power or lighting. Craig Heindel noted that the Conservation Commission had determined there would be no natural resource impacts from this proposal. Katie Quinn asked if it was approved by the Long Point Association and Norm Smith confirmed.

Mike Delaney asked if this was a waiver or if this would be approvable with the additional acreage. Katie Hill indicated it was a question of whether or not the Long Point parcels were considered as a whole or if there were setbacks considered for individual leased parcels and she would leave that consideration to the Zoning Board of Adjustment. Norm Smith indicated that the garage would be sited on a larger lot and there would be consideration of the footprint and

3 foot buffer. Norm Smith further indicated that they don't typically consider the lots to be contiguous and that while there is a slight increase in lot coverage they could mention this in the motion. Dan Berry indicated that the reason Long Point does not give a lot of space around these garage structures is a consideration of additional personal items not accumulating around structures. There was no one in the public to speak to the application.

MOTION made by Diane Nadon to close the public hearing which was seconded by Katie Quinn.

VOTE: All in favor. Public hearing closed at 7:17 pm.

MOTION was made by Mike Delaney to approve the application as submitted, which was seconded by Diane Nadon.

VOTE: All in favor. Motion passed.

4. Application Number 25-012: Change of Use; Change use from church to grocery store and deli; Applicant: Richard A. Benson; Parcel ID number 20/20/14; 3323 US Route 7; Ferrisburgh Town Center (FTC-1).

Rick Benson explained the application as changing the church into a deli, retail grocery, and prepared food store, with Nan Benson further noting it was the existing use at the Gilfeather's storefront. Rick Benson noted that they have outgrown their current space and are looking to expand into a larger space. Katie Hill pointed out that the entrance canopy was up higher, and there were modifications to the footprint of the ramp that existed previously. Mike Delaney asked if the new porch roof would not add to the degree of non-conformance, and it was confirmed that this is the case. Norm Smith confirmed that the ramp was existing, and Rick Benson pointed to the plans with confirmation of the location of the entrance and depth of the ramp.

Mike Delaney asked about in-house dining as it related to the previous conversation, and Rick Benson indicated that while they would have picnic tables outside during the warmer months, they were focused on more retail and working space. Katie Quinn asked about parking and curb cuts, with Rick Benson naming that depending on where the septic was sited, that they would like to have an entrance that connected to Atkins Farm Road and the Town Hall Road to avoid entrances off of Route 7, which had been discussed by John Bull and Clark Hinsdale. There was discussion around ownership of Atkins Farm Road, and Town Hall Road and permission structures in place for use of those roads including a presentation of a map of the existing roadways.

Norm Smith indicated that he would not be comfortable approving the application if there was no safe way for trucks to get in and out, and there would be a need to show how delivery vehicles to maneuver. Rick Benson indicated that John Fulger had no issues with connecting the entrance to the existing roadways, and it was clarified after a question from Diane Nadon that the trucks would be box trucks like UPS and FedEx in addition to cooler truck deliveries twice a week. There was further discussion of the ownership structures of the roadways with an emphasis on the need for clarity on how these roadways can be used by the applicant and legal rights for use. It was named that the use of the roadways and design was contingent on the design of the septic system and where an entrance can be made.

Craig Heindel noted that from his review, the wastewater permit use was for a Banquet Hall with 910 gallons per day and that the change of use would trigger the need for a wastewater permit amendment. Rick Benson mentioned that they may want to make space in the downstairs area for leasing or renting to someone who may be able to do sit down dinners for big family events or celebrations. Craig Heindel asked if there would be public bathrooms, and Rick Benson indicated there would be outdoor temporary bathrooms as with current operations, and that indoor seating is 30 gallons per day per seat. Craig Heindel noted that it was his interpretation that the wastewater permit would need an amendment for the change of use given that it was not approved for the use being proposed and that there should be confirmation that there is no change needed to avoid potential septic failure. There was further discussion of the nature of the approval for the current wastewater use, and it was noted by Norm Smith that there will be clarification needed on whether or not the current application needs an amendment.

Norm Smith indicated that in addition to considerations around the septic system and roadway access, the Town has an easement on the property regarding the maintenance of the character of the church. Rick Benson indicated that Selectboard Member Hinsdale indicated that it was a sound idea to connect to the preferred roadway eventually if allowed by the size of the septic system and Mike Delaney suggested getting a letter from the Highway Superintendent John Bull. Mike Delaney asked about plans for lighting, and Rick Benson indicated that lighting would only be on from 4 to 6 pm in the darker months given that they are open from 11 am to 6 pm every day except Monday when they are closed. There were questions about plans to change the church's appearance, with Rick Benson confirming they were planning on painting the church an ash grey with white trim and a slate roof.

Katie Hill clarified that there were two separate applications for this matter, one related to the change of use and the other that was related to a construction permit for means of egress as well as the deck, stairs, and ramp. Norm Smith confirmed that the entrance near the deck did not need Zoning Board of Adjustment approval as it was agreed that these changes would not increase the degree of non-conformance. Katie Hill reconfirmed by way of Norm Smith explaining that there would need to be coordination with the state to ensure the septic permit is appropriate as it relates to the change of use application. Norm Smith suggested that there be a written decision on the matter which would be issued within 45 days.

MOTION was made by Katie Quinn to close the public hearing which was seconded by Diane Nadon.

VOTE: All in favor. Public Hearing closed at 7:58 pm.

MOTION was made by Diane Nadon to approve the structural changes ahead of establishing what conditions would be part of the change of use, which was seconded by Katie Quinn.

VOTE: All in favor. Motion passed.

5. **Discussion: Charles "Chuck" Marshall, representing Stewart's Shops Corp., would like to discuss his letter of February 21, 2025 to ZBA Chair Norm Smith, regarding relocation of the gas station/convenience store at 6973 US Route 7 to 6990 Route 7.**

Stewart's representative Chuck Marshall explained that Stewart's had bought the assets of the Jolley Chain at 6973 US Route 7 as well as at 6990 US Route 7 and tonight's appearance was in an effort to get a sense of the level of support for a proposal to change the site. Chuck Marshall explained some constraints on the site at 6973, indicating that there was 1.3 acres of developable area, that having 2 pumps is undersized, and there is a lack of parking at the store. Jean Richardson asked if there would be development on both sides of the road, and Chuck Marshall indicated it would be dependent on the feedback obtained especially by neighbors. Diane Nadon noted that the new light installed on site shined into her bedroom frequently, and Chuck Marshall committed to investigating.

Jean Richardson asked what they would plan to do with the old corridor on site and Chuck Marshall noted a few more key facts including the site was undersized at 1.6 acres when compared against the 2 acre minimum but that the parcel on the opposite side was appropriately sized. Diane Nadon asked about land conservation and it was noted that the other parcel was located in the Village District but that gas and convenience stores may be two uses. Chuck Marshall showed on a map where the parcel in review extended to and asked about the process for individual setback waivers. It was explained that four different criteria are used, and Chuck Marshall indicated a familiarity with needing to meet state statutes for mitigation, disability access, fire safety, and energy conservation. After a question from Norm Smith it was confirmed that this would need a site plan review by the Planning Commission. Chuck Marshall expressed an interest in understanding dimensional waivers for setbacks, citing the New York statutes he was familiar with. Norm Smith read aloud the setback waiver criteria, citing Section 10.1.11 of the zoning code and indicating that the proposal could reasonably be granted a waiver. Jean Richardson noted that the Planning Commission would be interested in being advised.

Chuck Marshall indicated a willingness to move ahead with site plan review pieces such as truck routing, and a photometric plan for downlit LED fixtures. Diane Nadon noted a concern about the location of the pumps in the proposal given that there had recently been a wrap-up of construction related to the intersection including curb cuts and an additional concern relating to what would happen to the existing site with gas and convenience store infrastructure. Chuck Marshall noted that depending on the configuration, the site may be razed and used for septic built under the road for this use, but that he was aware with septic challenges. Craig Heindel noted that there should be an emphasis on the exploration of the ability for the site to host wastewater infrastructure as this may be a stopper for the project given that there was a lot of clay under the grass but that adjacent sites may offer more opportunity. Chuck Marshall indicated that both water and wastewater were of concern to investigate further.

Diane Nadon noted that she did not support this development as, as an adjoining neighbor, she was a patron of the Mobile station currently in place in addition to concerns around additional traffic. Diane Nadon noted that she did not see a need for this development and would like to see the adjacent field conserved, possibly by the church, as it had been maintained for 15 years. Chuck Marshall indicated that there may be an opportunity to place septic in the field and maintain it but that they did not own the parcel with the field on it and there would need to be discussion of that. Jean Richardson noted that the traffic may not change, with Katie Quinn noting that there could be an improvement given the flow of traffic. Chuck Marshall noted it would that the data from VTrans indicated that relocation would offer an improvement given current traffic patterns. After a question from Diane Nadon, it was explained that it would be

more laborious to move pieces around on the current lot than to start over and that there could be an expectation that the improvement may increase business.

Jean Richardson asked about the access to Old Hollow Road, and Chuck Marshall indicated that there could be plans to make a driveway for turns to be made. After a question from Norm Smith, it was noted by Chuck Marshall a driveway access point would be a VTrans decision but he could see the prohibition of left turns in.

Jean Richardson noted that they would ask for a full sidewalk, with Diane Nadon indicating that sidewalks and traffic lights was inconsistent with the character of the neighborhood. Chuck Marshall indicated that they were supportive of sidewalks but only those with connectivity to other walkable areas. There was discussion of the use of the church field and its history of development conversations, with Diane Nadon pointing out that there are snowmobile trails that go around that parcel to Mount Philo and she was not in support of seeing it developed. Jean Richardson noted that there was an interest in seeing the four corners developed and that it took 20 years for the traffic light to be developed and they were required to put in sidewalks for the traffic light but they have not done that yet. Chuck Marshall indicated that they would put sidewalks on the property. Katie Hill noted that as a resident of the neighborhood, there have been many plans to make Old Hollow more walkable as people go too fast on the roadway and there's very little room for pedestrians. Jean Richardson noted that the Road Commissioner can indicate where access can be located, with Chuck Marshall noting that limited access would likely stop the project.

Katie Quinn asked Craig Heindel what was needed for soil for this use. Chuck Marshall noted a preference for clay for gas tanks given that's what's used for the liner for storm water ponds. Craig Heindel noted that these were typically double lined for this use, and Chuck Marshall indicated a number of safety features included in typical gas storage design for Stewart's. Katie Quinn asked about the proposed size, with Chuck Marshall indicating 4500 square feet. There was discussion around orientation to the customer base, given the frequency of use of the existing station in the summer time. There was further discussion of the flow of traffic through the intersection, given that customers frequently stop at gas stations and convenient stores when they are already on route to another location. Jean Richardson asked that the build out of the site include information on the history of the site, which Chuck Marshall indicated an openness to.

Chuck Marshall asked about the make up of the Board with the members confirming that there were absences for his presentation which may affect the proposal. Diane Nadon indicated that she would continue to be vocal about her dislike of the application. Chuck Marshall asked if there was a preferred layout and committed to following up with VTrans and John Bull. Diane Nadon asked about the size of the trucks that would be stopping, and Chuck Marshall indicated there would at least be fueling trucks making deliveries three times a week and they would be 52 feet. After a question from Jean Richardson there was further discussion of roadway plans, with confirmation that conversations with VTrans, John Bull, and consideration of the soil were all needed to proceed.

6. **Adjournment:** Norm Smith made a motion to adjourn the meeting, which was unanimous. The meeting was adjourned at 8:57 pm.
7. **Next Meeting:** April 2, 2025 at 7 pm.