

Minutes

Approved on: May 3, 2023

Zoning Board of Adjustment

Town of Ferrisburgh, VT

Minutes for meeting of April 5, 2023

Note: This meeting was conducted both in person and remotely. Some participants joined the meeting through a Zoom online connection, while others attended in person.

Members present: Norman Smith (Chair), Bob Beach, Diane Nadon, David Mentzer, Mike Delaney. **Members absent:** Katie Quinn, John Paul. **Minute Taker:** Anne Audy (via Zoom)

Town officials present: Steven True (Zoning Administrator)

Participants present (in person): Aubrey Choquette, Carol Allen, Jeff Blasius, Gail Blasius, John Pitrowiski, Ben Waterman, Jonathan Brownell, Lathrop Brownell, Craig Heindel, Sid Van Der Way, Todd Hardie, Deborah Townsend, Joe Nelson, Carl Cole, Mark Franceschetti.

Participants present (via Zoom): Trainer Thompson, Bonnie Barnes

Meeting called to order at 7:00 pm by Norman Smith.

Minutes approval from Zoning Board of Adjustment meeting of March 1, 2023:

Bob Beach stated that at the top of page four (4), the spelling is incorrect for Katie Hill. Additionally, David Mentzer corrected the decision for Item Three (3), the application for Brownell, to say there was a motion to Continue the public hearing, not to close it. Carl Cole made a comment about the conversation with Dave regarding Class 2 vs. Class 3 weapons. Mike Delaney moved to accept the meeting minutes as amended. David Mentzer seconded. **Minutes were unanimously approved as amended.**

Application #23-011 (J Brownell) Contractors Yard; property ID#: 15-01-64; Lot 1, Tappers Crossing; Industrial (IND-2) district; conditional use (*Continued*)

(7:08 pm)

Jonathan Brownell and Lathrop Brownell, with Carl Cole representing, were in attendance. Carl Cole noted that the site map did not show the heated shed moved out of the staked encroachment area on the East, which it will be. Site visits were conducted by board members prior to this meeting.

Minutes

Approved on: May 3, 2023

Public Comment: Aubrey Choquette, lives at the corner of Tuppers Crossing on Route 7, adjacent to the parcel, commented that they walked the property today and supports this use for the property. Carol Allen seconds what Aubrey Choquette said.

Norman addressed the concern of wood cutting with chainsaws. It will be short term, only 1-2 days, only for personal use; and otherwise, only log length wood will be brought in and processed with a wood processor on the property, not cut down on site. All machines are 80-90 decibels around 3 feet away. Steven True noted that the maximum volume for this zoning district is 70 decibels at the property boundary. Bob Beach noted that the buildings appear to be placed in a way that buffers the noise; Mr. Brownell is concurred that the buildings will create a sort of courtyard, where the backs of the buildings will face the neighbors and work will be done in front/within. While this will be a contractor yard, the noise making typically happens on the job sites (offsite).

Norman asked for confirmation that the operating hours will be 6am-6pm and with full cut off lighting. A security light that is down shielded may be left on outside of business hours.

Diane asked about road access. It was pointed out on the map, including the new access road to be built. The access was needed to get the subdivision.

Diane motioned to close the public hearing at 7:15 pm. Mike seconds. All were in favor – public hearing is closed.

A motion was made by David Mentzer to approve the application as presented with the following conditions: an updated site plan will be submitted to show the heated shop being relocated out of the right of way, only full cutoff light fixtures will be used, hours of operation will be Monday-Friday 6am-6pm with only incidental office hours on Sundays, firewood processing on the property will be only for personal use, the existing hedgerow around the West and North side will remain less any dead and downed trees.

David Mentzer moved to approve as presented with the aforementioned conditions; seconded by Diane Nadon; **motion passed unanimously.**

Application approved with conditions on April 5, 2023.

Application #23-012 (R. Donovan) Short Term Rental; property ID#: 18/20/53;718 Old Hollow Road; North Ferrisburgh Village (NVFVD) district; conditional use (*Continued*)

(7:23 pm)

Minutes

Approved on: May 3, 2023

Steven True consulted with the Donovan's and spoke on their behalf. They have requested to continue to next month's hearing so they can do due diligence and speak to the representatives.

Public Comment: None

Diane Nadon made a motion to continue; Mike Delaney seconded; **motion passed unanimously.**

Application continued to next hearing on May 3, 2023.

Application #22-019 Conditional Use; Tier 2-6 Cannabis Cultivation; property ID# 05/01/44.3 applicant(s): Ben Waterman; 42 Dirt Drive; Rural Agricultural (RA-5) District

(7:25 pm)

Ben Waterman is planning to lease the portion of their property near the pond for a conditional use to Trainer Thompson for cannabis cultivation. The plan is to cultivate outdoors for now but may include hoop houses as part of further growth. Trainer Thompson notes he is looking for Tier 1 or 2 which will utilize a maximum of 4000-5000 square feet.

David Mentzer pointed out that the application is requesting Tiers 1-6 cannabis cultivation. This year, Trainer Thompson is applying for Tier 2 to prepare for expansion. Bob Beach asked if there will be any outbuildings. Ben Waterman noted there may be a temporary Onyx box for dehydrating, but only during the harvest season. Trainer Thompson will do no processing on site, only cultivating. It will be taken offsite for processing by a licensed manufacturer. Ben Waterman stated that the pond will be utilized for irrigation and that generators will be used for the minimal drying directly after harvest.

Steven says this is not agricultural because the Department of Agriculture does not see it as such. The zoning regulations in Ferrisburgh's Bylaws dictate the regulation of these operations in the various zones, specifically, any Tier 2 indoor or outdoor operations are conditional use. There are federal regulations including security measures based on Tiers.

David Mentzer inquired about specific security measures required for Tier 2. A fence is required at minimum as part of the security measures. Trainer Thompson will be installing a fence and motion activated security cameras, possibly video cameras down the road. David Mentzer inquired about the fence. Ben Waterman said it could be a chain-link or a three-wire fence. Norman Smith addressed the criteria for conditional use and how this

Minutes

Approved on: May 3, 2023

application fits, noting that no conditions need to be placed on this. David Mentzer would like to limit the applicant Tier 2 and if the applicant wants to move to Tier 3 and beyond, they will need to reapply.

Diane Nadon observed that the Cannabis control board regulations discuss motion activated flood lights and inquired whether lighting will be used. Trainer Thompson is not planning on using the security light option because of the effect on the Cannabis plant which is photo sensitive. Steven True reiterated that the security options are progressive through the Tiers. More security measures from the list of options are required at the higher Tiers.

Public Comment: None

Diane motioned to close the public hearing at 7:36 pm. Mike seconds. All were in favor – public hearing is closed.

David Mentzer motions to approve as submitted with the condition that it is limited to Tier 2 cultivation and a new application will be required for continued expansion.

David Mentzer made a motion to approve with condition; Mike Delaney seconded; **motion passed unanimously.**

Application approved on April 5, 2023.

Application #23-022 Conditional Use; Commercial Grain Center w/distillery, tasting room, restaurant; property ID#15/01/22.4 applicant(s): Champlain Valley Grain Center c/o Todd Hardie; US-7 & RT22a, east of Park ‘n’ Ride; Industrial (IND-2) District

(7:38 pm)

Engineer John Pitrowiski and the applicant, Todd Hardie, were in attendance. The property is located at the intersection of 22A and Route 7, with Lot 1 having been subdivided to 5 acres. This proposal is for the 6000 square foot building (60’ x 100’) with four (4) silos and thirteen (13) parking spaces. The site is mostly open with a heightened area that is wooded, later referred to as the wooded knoll. The development zone is somewhat restricted due to Act 250. Access to the property will use the existing driveway serving the Park and Ride. The site plan represents that there is potential for a future building, which is not part of the present application. The utility and septic plans were presented. Because it is a distillery it requires high strength wastewater but will be a relatively low output of 679 gallons/day, which also includes the small café, restrooms, and distillery. This is a standalone, onsite, inground conventional septic system. There is

Minutes

Approved on: May 3, 2023

time-delayed application spread over seven days, and also pre-treatment equipment. There is a massive gravel deposit on one corner of the property and the rest of the property is clay as confirmed after testing with Craig Heindel. There is connect ability with the existing sidewalk and to Douglas Sweets, a state stormwater discharge permit will need to be obtained, a wastewater permit will be required, the existing municipal waterline allows for a simple connection to the Ferrisburgh Fire District line and there is appropriate fire hydrant access. A short addition to the water line will be required, and both buildings will have sprinkler systems.

An Act 250 permit will be utilized, and the applicant has already applied to get partial findings. They will also need an Erosion permit from the state. The applicant is aware of all of the required permits.

David Mentzer asked about the pathway network on the site plan. John Pitrowiski noted that it is intended to be a mowed walking trail around the property, and Todd Hardie will grow grain, wheat, rye, corn and/or barley where allowed; it will be used for agriculture. Lots 2 and 3 will have crops wherever possible, too.

Public Comment: Joe Nelson with the Ferrisburgh Conservation Commission proposed language about the wooded knoll being a no-cut area and maintaining a no-cut buffer around the wetlands. John Pitrowiski confirmed that no earth work or construction are proposed in the wetlands or easements, though much of this land has been hayed over the years and some form of agriculture will continue on the property. Lot 3 has an easement, including the wooded knoll in a wild state, excepting any non-native invasives. Todd Hardie confirmed that the pre-existing mowed path will be preserved and cleared as needed of fallen trees and there is currently a manure berm which will be removed. No other cutting is anticipated.

Steven True asked if there is a timeline for breaking ground. Todd Hardie is hoping to break ground in 2024, Todd noted that some of the equipment and electrical will take longer to obtain because of supply chain shortages.

Diane Nadon, during her site visit, saw a drainpipe with a cover on the ground and requested it to be pointed out on the site map. John Pitrowiski confirmed that what she saw was a water valve. Bob Beach stated it is a drain for the water system. All the pins were able to be easily and accurately located, and the entire property was surveyed.

Todd Hardie, president of the Northern Grain Growers, was asked to discuss the building site plan. The day of or day after cutting, the grain center will receive, clean, store and dry grain then clean and mill to make grain available to bakers and whiskey-makers. Drying will be available on the day of harvest with propane (to dry a truck load in 3 hours) and

Minutes

Approved on: May 3, 2023

within silo (with air blown by fans). If grain is in danger of going bad, the propane dryers will be turned on. The grain being harvested on site and purchased will be processed primarily for the distillery and a small portion will be sold in bags or to bakeries and Caledonia Spirits in Montpelier. Steven True inquired about noise concerns with the fans. Todd Hardie does not believe they will produce a concerning level of noise. They are integrated with the silos and are relatively well shielded. They will also be operating only seasonally. This project will include a large unit for drying with propane before putting grain in the silos, so the silo fans will be used minimally.

John Pitrowiski noted that the building will be barn-style with a specific shade of red exterior and will have similar character to other buildings along Route 7; Todd Hardie clarified that Rick Hershner is helping with the choice of red shade as he wants it to look historically accurate and it will be a subdued red. Site renderings were shown to the Zoning board and it was noted that the building is not easily seen from Route 7 but is visible from several vantage points.

David Mentzer inquired about the number of employees. Todd Hardie believes they will start with 3 and work up to 6 employees. Drying will require 2 employees and 1 in the café which will serve breakfast, lunch, and an evening meal. The café will include a woodfired oven for pizza (grain provided for dough) and salad/soup/sandwiches. The café/tasting room includes 12 seats; the associated application has not yet been submitted. John Pitrowiski noted that a logical area has been set aside for expanded parking if needed, should the café need expansion. Norman noted that this property is in an industrial district and a restaurant would not likely fit within zoning regulations. Todd confirmed there is no intention for a restaurant, but that the café is to meet the requirement of serving food when alcohol tastings are offered. The café is relatively small and is based off of an existing setup at a location called Maine Grains. The majority of the building is for distillery and whiskey manufacture, there is a small retail component. It will include a bar. Norman Smith agreed that the current plan fits within accessory use.

Mike Delaney inquired about hours of operations. Todd Hardie pointed out that during harvest time there will be a narrow window of extended hours. Basic grain center operations will be 8am-8pm, ideally any distillery or grain processing work will be completed by 5pm, but they cannot turn off the machines when drying is in process. The distillery will be sized to make (2) 53-gallon barrels twice/week. The second building will be primarily a rack house. This is not a big distillery, and the goal is to make about 100 barrels annually. It will take about 4 years for the whiskey to be ready.

David Mentzer asked for confirmation that the parking meets the requirement. John Pitrowiski confirmed the calculations were done. Diane Nadon noted the nearby park and

Minutes

Approved on: May 3, 2023

ride. Todd Hardie also noted that the space in the back is available for staff when trucks are not coming in. Steven True addressed the applicable regulation (Article 7.2, page 37) which references the Vermont Green Streets Guide for the number of required parking spaces. John Pitrowiski noted that there will be a handicapped parking spot.

David Mentzer inquired about lighting. John Pitrowiski noted that a lighting plan was submitted to the zoning board. Lights will be down-shielded, low lighting levels but lighting is necessary for security due to insurance and liability. There are 2 poles isolated to the parking lot.

Steven True also noted that Town & Country, an adjoining neighbor, submitted a letter of support.

Bob Beach moved to close the public hearing at 8:18pm. Diane Nadon seconded. All were in favor – the public hearing is closed.

Mike Delaney made a motion to approve as presented; David Mentzer seconded; **motion passed unanimously.**

Application approved on April 5, 2023.

Application #23-023 Conditional Use; Commercial Bakery w/ one (1) accessory dwelling unit (ADU): property ID#15/01/22.4; applicant(s): Douglas Sweet c/o Deborah Townsend; US-7 & RT22a, east of Park 'n' Ride; Industrial (IND-2) District

(8:20 pm)

John Pitrowiski noted that Deborah's project uses Lot 2 and Lavender will be planted; much of the same information from prior application. Also of note, Steven True noted that Town & Country, an adjoining neighbor, submitted a letter of support.

This property will be served by municipal water and will have a long mound system for septic that blends into the wooded area, as the property is in Vergennes clay. Road access, parking lot, sidewalks, stormwater and wastewater systems are simple and have been designed. A Norweco pretreatment unit will be installed, and the facility will use under 1000 gallons per day. The building will have a sprinkler system; street trees will complement the access point; sidewalks will be established connecting to Todd Hardie's facility, the walking trails and the Park and Ride; and there will be one handicapped and 5 regular parking spaces. There are 4 employees, but several will reside on site. A small apartment will be included above. Floor plans were submitted with the application, the renders were shown briefly to the board.

Minutes

Approved on: May 3, 2023

The commercial portion of the project will be on the main level with a residential two-bedroom apartment on the second floor. The roof will be all solar. Deborah Townsend described the building design, use of balconies because of second floor square footage restrictions, and the intentional view of the lavender field. On the retail side, tea and coffee will be served with sweets/baked goods, but no seating or public restrooms inside. The building will be dark colored so the flowers will “pop,” and incorporate Japanese wood in portions which will never need to be painted. Currently, Douglas Sweets operates 6am-4pm only 4 days/week. May shift to additional hours of operation with all employees having 4-day work weeks. The store may be open to compliment Todd Hardie’s distillery, but no production will occur on Saturday. Store hours may be extended on weekdays as well, but production will occur only within the aforementioned hours.

The plan includes one parking lot light and one building light; minimal exterior lights which will be shielded and low-level. John Pitrowiski noted on the site map the location of the utilities and other features. A location for a future building and parking expansion is shown on the site plan, which is not part of the current plan, but to be prepared should there be expansion. The applicant provided construction sequence information and stated that the wetlands will be honored with silt fence and there will be no accidental impacts on the wetland buffer.

Public Comment: Joe Nelson with Conservation Commission commented about Lot 3 – concern about the wooded knoll and looking for a no-cut buffer. They will submit the requested language to the Zoning Board. Norman noted that because Lot 3 is not part of the application, the Zoning Board of Adjustment is not able to put conditions on it, but Act 250 or the Land Trust who owns the conservation easement may bring up concerns. Steven True noted that this is relevant for the Planning Commission, by which the subdivision has already been approved. Joe Nelson referenced a prior conversation that involved one of the adjoining neighbors being interested in a vegetative buffer. Deborah Townsend pointed out that there currently are trees in that area. Craig Heindel said this was part of a Planning Commission hearing and Bob Beach noted that the neighbor was unaware of where the property line was nor that there will be no use of this lot for production purposes.

John Pitrowiski reiterated the permit applications that will be applied for and noted that they will be applying for partial findings through Act 250, the application for which will likely be submitted by the end of the week.

All the activity is on Lot 1 and Lot 2 except for the walking trail, which is a mowed path, for which no construction is proposed and is not within the buffer. Deborah Townsend noted that the town of Vergennes is intending to add a connector trail from downtown

Minutes

Approved on: May 3, 2023

to the existing walking trails. David Mentzer inquired if there was an application for Lot 3. Steven True noted that it is conserved, so there is no application.

Steven True noted that Town & Country, an adjoining neighbor, wrote a letter of support.

Diane Nadon motioned to close the public hearing at 8:41pm. David Mentzer seconded. All were in favor – the public hearing is closed.

Mike Delaney made a motion to approve as presented; David Mentzer seconded; **motion passed unanimously.**

Application approved on April 5, 2023.

Application #23-024 Conditional Use; Expand storage capacity at existing facility; property ID#18/20/71; applicant(s): Mark Franceschetti; Highway Mixed Use (HMU-2) District

(8:44 pm)

Steven True reported that Mark Franceschetti has subdivided his 8-acre parcel into two (2) 4-acre lots. There was a question by the Planning Commission about whether prior zoning hearings and approvals would have an impact on this application. They determined that they would not have an impact based on Steven True's review of the prior minutes.

The current proposal is to expand the existing storage facility to optimize lot coverage, to max out the allowed developed portion of the property. This would add 30'x30' onto the Southern of the two storage facilities. The building would utilize the same materials, gravel area would be expanded. Steven True said that the lot coverage is currently at 40%.

Bob Beach asked if the subdivision was established for the purpose of adding square footage of storage. Mark clarified that it was because he wants to be prepared to retire.

Public Comment: Craig Heindel, as a nearby neighbor of the property, noted that this will have only minor impact. He intends to report to the North Ferrisburgh Village Association that he is in support of this expansion.

Bob Beach motioned to close the public hearing at 8:51pm. Mike Delaney seconded. All were in favor – the public hearing is closed.

David Mentzer made a motion to approve the application as submitted; Mike Delaney seconded; **motion passed unanimously.**

Application approved on April 5, 2023.

Minutes

Approved on: May 3, 2023

Other Business

A brief discussion of a checklist for the Zoning Administrator to attend to during applications will occur after the public hearing has been adjourned.

Norman Smith moved to adjourn the regular meeting. Seconded by Diane Nadon. Meeting was adjourned at 8:53 pm.

The next meeting of the Zoning Board of Adjustment is scheduled for May 3, 2023.