

Minutes

Approved as Amended on: May 4, 2022

**Zoning Board of Adjustment**

Town of Ferrisburgh, VT

Minutes for meeting of April 6, 2022

**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, David Mentzer, John Paul, Katie Quinn. **Members absent:** Mike Delaney, Diane Nadon. **Minute Taker:** Anne Audy.

**Town officials present:** Steven True (Zoning Administrator), Karen Petterson (Conservation Commission), Clark Hinsdale (Selectboard).

**Participants present (in person):** Brent Rakowski (Otter Creek Engineering), Andrew Martin (Neagley & Chase), Michael Redmond, Adam Gross, Mikeala Bowen, Rebecca Rey, Timothy Fair, Rick Ebel, Sarah Stradtner, Kevin Sullivan, Clark Hinsdale.

**Participants present (via Zoom):** Elizabeth Filosa, Gunner McCain, Geoff Kerr, John Alden, Andrew Subin.

**Meeting called to order at 7:03 pm by Norman Smith.**

**Minutes approval from meeting held on March 2<sup>nd</sup>, 2022:** David Mentzer moves to approve, Katie Quinn seconds, all are in favor. Minutes are approved.

**Application # 22-019 (VT Livestock) for improvements to existing facility; including building, loading dock, and access; property ID #10/01/37; 76 Depot Rd; 19/20/17.1; Rural Agricultural (RA-5) district; conditional use.**

**(7:09 pm)**

Carl Cushing is represented by Andrew Martin (Neagley & Chase) and Brent Rakowski (Otter Creek Engineering). Bob Beach requests a letter of representation from Carl Cushing.

Andrew Martin detailed the current situation: Carl Cushing's family-owned business, Vermont Livestock Slaughter & Processing Co, is not currently very viable, is incredibly inefficient and has many areas are not up to code. Andrew Martin noted features on the drawings and explained the plan for improvements. The old ice barn will be used as expansion space, with minimal roof area increase to the North. The existing former-house

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will be taken down and rebuilt to accommodate additional processing and refrigeration. New mechanical and electrical systems will be installed to bring the facility up to code. This application will not have to go through ACT 250 as it is grandfathered. Construction would begin mid-May and be done in phase to keep the business open throughout. There will likely be no increase in traffic as the current trucks will carry more head (going from 8 head to 12 per truck). The project is well funded and well organized. SunCommon will put in a separate solar array for peak offset.

Brent Rakowski addressed the expansion onto the North side of the hoop barn as well as the following site work: there will be minor improvements to the drive (paving an apron); the USDA requires bituminous material right outside the facility; the North end will be widened for turn around to create egress from the site for increased truck; existing residence will move to accommodate the changes to the drive; existing town water supply and wastewater system is adequate for expansion.

Andrew Martin described the improvements to the former house: small addition to front of building; new elevator (taking equipment up and down to 2<sup>nd</sup> floor); employee office/bathroom/changing facility. The current operation is inefficient and does not include enough floor space for proper storage. There is also an opportunity to re-engage with Hannaford Career Center.

### *Public Comment:*

Clark Hinsdale says the selectboard enthusiastically supports this project

Karen Petterson addressed Craig Heindel's memo regarding whether there would be any storm water management or erosion control.

Brent Rakowski says the trigger for requiring a formalized storm water treatment permit is if there is an expansion of more than a half-acre. In this case it is incremental, so it doesn't trigger a need for a state permit. During construction practices will be put into place to manage storm water and erosion control; after construction it should all be stabilized; there will be no retention ponds.

Karen Petterson asked for clarification on when construction will start. Brent Rakowski confirms they plan to begin the first phase in mid-May.

David Mentzer sought clarification on property line setback, a waiver is needed. Andrew Martin has talked to Vermont Rail who wanted to know what the Town of Ferrisburgh had to say. Norman Smith states that a 25' setback is usually required from the property line.

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David Mentzer asked if there would be an increase in hours. Andrew Martin confirmed there will be no change in operational hours.

David Mentzer moved to close the public hearing. Bob Beach seconded. All are in favor. Public hearing is closed at 7:29 pm.

Norman Smith moved to grant a waiver for the setback requirement along the railroad right of way and to approve the application as submitted, subject to proper handling of storm water runoff from the site. Katie Quinn seconded. All are in favor. **Motion passed unanimously.**

Andrew Martin will submit the following for records: a letter from Carl (the applicant) regarding representation; a letter about ACT 250; and 8.5x11 copies of maps.

**Application approved with waiver on April 6, 2022.**

**Application # 22-010 (C. Hinsdale) for improvements to existing camp; raising elevation to ground; property ID #04/01/03; Danyow Drive; Shoreline (SD-2) district; conditional use.**

**(7:33 pm)**

Clark Hinsdale plans to knock down the entire camp due to rotting foundation; last year all 8 camps were granted approval for new water and sewer system state permits and designs. There are 4 mound systems and 2 wells for all 8 camps. This application also includes a request to winterize and make the camps year-round. Clark Hinsdale requests to incorporate a 2' cantilevered deck on the second story, lakeside, as suggested by Richard Becker, architect. This addition would be categorized as air space and would not increase the impervious surface, the footprint would not be getting closer to the lake, in the air it would. Also requesting for the camp to be 3' higher, making it 26' on the lakeside.

Discussion on the present elevation, camp design and setback questions and scenic considerations.

No public comment.

David Mentzer moved to close the public hearing. Bob Beach seconded. All are in favor. Public hearing is closed at 7:49 pm.

David Mentzer moved to approve the application as submitted. Bob Beach seconded. All are in favor. **Motion passed unanimously.**

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**Application #22-010 is approved on April 6, 2022.**

**Application # 22-014 (M. Huber) for a waiver; home addition and improvement; ID #19/20/38; 752 Kimball Dock Rd; Shoreline (SD-2) district; waiver.**

**(7:51 pm)**

Martha Huber is represented by Rebecca Rey. The applicant is proposing adding a connector between their house and garage. They need to replace roof on boathouse and want to extend it out like a carport for water sport gear. Boathouse is on an existing monolith of concrete and the impervious surface area would not increase. The mudroom will be stretched to the end of the house on existing hardscape.

Discussion follows regarding non-conforming status of lot and structure, setbacks, notification of neighbors and examination of drawings. The addition and improvement will stay within an existing roofline. The connector will be about 16 ft and only in the air over a pre-existing impervious surface, the mudroom is 90 ft<sup>2</sup> and the addition will extend to 3 ft inside the existing relationship to the boundary line. The footprint will not expand but the square footage will increase.

Steven True points out that this property is in the shoreline district. David Mentzer states that a permit from a shoreline specialist would typically be required.

*Public Comment:*

Karen Petterson asked if the applicant will be getting a shoreline protection permit or if any trees or vegetation will be removed and if an affidavit is needed. Rebecca Rey says they are not getting a permit because the 90 ft<sup>2</sup> mudroom is going to be on existing hardscape; and there are no plans to remove any trees. Norman Smith states that the application does not suggest any tree removal so no affidavit is needed, and it can be made a condition instead.

Norman Smith moves to close the public hearing; Katie Quinn seconded. All are in favor. Public hearing is closed at 8:03 pm.

David Mentzer moved to approve the application as submitted with the following conditions: development does not go beyond currently developed portions of the site, submission of a letter stating that no trees will be removed during construction, submission of communication from a permitting specialist that a shoreline district permit is not required. Seconded by Bob Beach. All are in favor. **Motion passes unanimously.**

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**Application #22-014 is approved conditionally on April 6, 2022.**

**Application # 22-018 (Kerr, McCain POA) removal of existing cottage of 560 sq. ft. and construction of new cottage of 952 sq. ft.; property ID #21/2102; 662 Woods Rd; Shoreline (SD-2) district; conditional use.**

**(8:05 pm)**

Geoff Kerr & Gunner McCain attended via Zoom. Gunner McCain addressed the project for the existing camp in Basin Harbor: there currently is a main lodge and a cottage; requesting approval to tear down the existing cottage and replace it with a larger structure, add a second story to the existing garage, and increase the parking area; applicant has already submitted a shoreland application and received the comments from conservation commission. Discussion of map follows.

Gunner McCain confirmed that the project will not be reaching a half-acre of impervious surface to trigger a state permit for storm water. They will be adding water and sewer to the garage for the office/rumpus room above and laundry room in lower level. No state permit yet but will be required due to addition of a septic pump for garage; there will be no increase in design flow.

David Mentzer asked if the two parcels are merged or if they are separate parcels. Gunner McCain clarified that they have been merged, though the original lot line is shown on the map. The total merged lot is 1.6 acres. There is no state permitted wastewater system as it was pre-existing exempt. Wastewater will leave garage with a septic tank pump transferring it to the current main septic system.

Geoff Kerr explained that the laundry in the garage will be central laundry for the property as the current laundry is in a basement with a 5' ceiling. Norman Smith clarified that this application is requesting to tear down and enlarge the existing cottage, with no additional bedrooms; provide additional parking; and add second story to existing garage, which will not include any bedrooms.

*Public Comment:*

Karen Petterson requested that Gunner address the comments from the Conservation Commission. Gunner McCain replied to each comment as follows: 1) a permit will be acquired; 2) the area is in range of the Indiana bat (endangered species) – the owners are wanting do all of this correctly and will have the area surveyed by an arborist to ensure they are following the Fish & Wildlife Guidance; 3) wildlife habitat & travel corridors: a

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few trees need to be removed, but more trees will be planted than are removed, there is not a lot of access for wildlife on the shoreline due to the steepness of the slope and ledge, they will be re-vegetating in setbacks, including adding privacy screening in collaboration with the neighbor to the South; 4) downcast & shielded lighting will be used and the current floodlights on all buildings are being removed; 5) the property has no streams or wetlands; 6) they will not need an amended permit though the project does require a permit because of the septic pump system to be built.

Karen Petterson asked if they could you have a 25' no-cut zone in the setback on the North side, except for the 2 designated trees. The applicant, Geoff Kerr supports this idea and also stated that they will be removing invasive species throughout the property.

David Mentzer and Norman Smith requested the applicant to provide a written record of the responses to the Conservation Commission's comments as well as a master landscaping plan. Gunner McCain suggested adding these items to a revised site plan representing these requests. David Mentzer asked for a record of the permit plan on how all of the Conservation Commission's requests will be addressed.

Katie Quinn moves to close the public hearing at 8:26 pm. John Paul seconds. All are in favor.

David Mentzer moved to approve the application as submitted subject to the following three conditions:

Condition 1: a final record permit site plan shall be submitted that indicates applicant's response to conservation commission's comments for record indicating the response to be taken to develop the final master plan to the conservation commissions comments.

Condition 2: a wastewater permit shall be submitted for the record.

Condition 3: a shoreland permit shall be submitted for the record.

Seconded by John Paul. Members in favor: Norman Smith, Katie Quinn, David Mentzer, John Paul; Bob Beach abstains. **Motion passed.**

**Application #22-018 was approved conditionally on April 6, 2022.**

**Application # 22-022 (D. Boggs) construction of a new ~4,400 sq. ft. residential building attached garage; property ID #12/10/01; 804 Spencer Farm Rd.; Shoreline (SD-2) district; conditional use.**

**(8:29 pm)**

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Dennis Boggs informs the board that this is not a new application; the original permit expired March 9<sup>th</sup> and the house is already under construction. Discussion between Zoning Board members and applicant ensues.

David Mentzer confirms that all activities have to be substantially commenced within 1 year and completed within 2 years; upon request by the applicant, the board can renew the permit. Further discussion follows.

Norman Smith states that this can be considered a request for a year extension. Steven True confirms that he can grant that.

**Dennis Boggs is dismissed at 8:36 pm with the decision that the application was not necessary in the present situation.**

**Application # 21-178 (Sullivan) for improvements to existing quarry; property ID # 13/01/59.1; 2078 Jersey Street; Rural Agricultural (RA-5) district; conditional use; continued from March hearing.**

**(8:37 pm)**

Kevin Sullivan and Sarah Stradtner are present, as well as their attorney, Elizabeth Filosa, via Zoom. The members of the board reviewed the two affidavits. Norman Smith synopsised that the pre-existing use is someone pulling rock off quarry once per year since 2018. Elizabeth Filosa clarified that the affidavit said, "at least once a year." Discussion follows regarding the non-conforming use and the timeline of operation. Steven True referenced the Town of Ferrisburgh's Land Use Regulations Section 5.8H. Norman Smith addressed the need for further deliberation.

*Public Comment:*

Ferrisburgh resident and neighbor to the North of the property in question, Michael Redmond, addressed the board: the applicant removed stone from when he bought the property until the town shut him down; Michael claimed to have pictures of when Sullivan started to make a road to where he removed stone one year after he purchased the property (Spring 2020). His new plan shows that the condition of the land use is 200 ft setback from any neighboring property, which it is not. Michael Redmond elaborated on the placement of the new road Sullivan built.

Rick Ebel does not support the application. Where we live is RA5 – because of age of town, there are plenty of exemptions, but the rate of extraction from the existing quarry has increased because of the capacity of machinery to do that. Norman Smith asked how

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much activity he had seen on this property over the last 5-10 years. Rick Ebel stated he had seen little to no activity. To his knowledge it had been used as a borrow quarry, but he was not aware of any commercial operation taking place or any regular stone extraction.

Michael Redmond stated that truck traffic has increased over the years. When he purchased the property to the North, someone came in once per year in Spring, and removed about one truck load from the existing residential road on the South side of the property. Overtime the yearly visits stopped, but always using the existing residential road on the South end of the property. A new access road has been put in since the property was purchased in 2019 by the applicant.

Karen Petterson said that information presented may/may not be relevant, but the Conservation Commission referred back to previous comments with nothing to add. If this application does precede, the wetland needs to be delineated and it will be bigger than the pond. Soil erosion and stone-water issues need to be addressed. Karen suggests the addition of a culvert. Rick Ebel clarified that from the pond the water runs South-to-North. The elevation of the road is such that it cannot run West-to-East. The original owners built the pond. Karen Petterson said the culvert is not relevant because water flows in a different direction.

David Mentzer moved to close the public hearing at 9:01 pm. Seconded by Katie Quinn. All are in favor.

Norman Smith stated that this decision needs deliberation and cannot be made tonight.

**Application review continued to next meeting on May 4, 2022.**

**Application # 22-020 (Bern Living Organic) change of use from current to cannabis cultivation, and manufacture; property ID #23/20/38;2777 Rt. 7.; Ferrisburgh Town Center (FTC) district; conditional use**

**(9:03 pm)**

Adam Gross and Mikeala Bowen, the applicants, and Timothy Fair, attorney, are present. Adam Gross described the proposed change of use: The planned Cannabis grow facility should be the cleanest/greenest grow facility in the entire state. The style of growing is living soil, no-till soil beds; all water is recaptured distillate from the dehumidifiers and air conditioners so no wastewater except for handwashing/toilets; all lighting will be LEDs;



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brand new technology that will use much less power; the operation will only require a few employees.

David Mentzer asked the applicant to clarify whether they would be expanding the building. Adam Gross responded that no change to the footprint of the building, the exterior of the building will remain the same. All the growing will be done inside the building which will include virgin charcoal activated filters that remove the smell. Confirmation that the proposed space is an adequate distance from the Elementary School. Discussion follows on the air filtration/circulation system.

Adam Gross stated that to establish the facility they need a state fire permit (state fire and state electric have already visited the building and applicant is aware of minor changes needed) and a license from the cannabis control board. They will apply for a Tier 2 grow license: can grow up to 2,500 sq. ft. of canopy (360 plants).

David Mentzer asked the applicant to address accessibility. Adam Gross said there currently is parking for up to 14 employees. Katie Quinn asked if the applicants live on the property and Bob Beach asked whether there was a security plan. Adam Gross responded that they do live on the property and there will be 36 cameras installed. Mikeala Bowen added that there will be lights on around the exterior of the building, there will be no signage and it will not include a retail store.

### *Public Comment:*

Karen Petterson asked if they will need an amendment to the current wastewater permit. Adam Gross responded that they will not. We are approved for 490 gallons of wastewater. The water used to water the plants is pulled from the air into condensing unit of machines, calcium added, and water recycled. The plants will be dried after and there will be no process water other than cleaning the floor between harvests. Plants will be hand-watered, and no medium will be disposed of between crops. No impervious surfaces will be added. Mikaela Bowen described the living-soil, no-till growing process.

David Mentzer asked about electrical usage. Adam Gross stated that the estimated peak energy usage will be 8,000 per month. Norman Smith asked for clarification that the house will remain 2 bedrooms and there will not be more than 14 employees. The work hours will be 11 am – 6 pm with the lights going off at 6:00 pm daily. Adam Gross confirmed both. Adam Gross went over the site map with Karen Petterson to confirm that all surfaces and structures are existing, and nothing will be added or moved.

Katie Quinn moves to close the public hearing at 9:20. Seconded by David Mentzer. All are in favor.

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John Paul moved to approve the application as submitted; seconded by Katie Quinn; all are in favor; **moved passed unanimously.**

**Application #22-020 was approved on April 6, 2022.**

**Katie Quinn moved to close the public meeting; David Mentzer seconded; all are in favor.**

**Meeting is adjourned at 9:24 pm.**

**The next meeting of the Zoning Board of Adjustment is scheduled for May 4, 2022.**