

Zoning Board of Adjustment *Town of Ferrisburgh, Vt.*

FINAL – Minutes for meeting of December 5, 2018; approved January 9, 2019

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

Town official present: Bonnie Barnes, zoning administrator.

Visitors: Jason Barnard, Sean Dye, Nancy Larrow, Gregory O'Brien, Meghan Sheradin.

The meeting was called to order at 7:05 p.m.

Application 18-110. Application by Joseph Chase on behalf of the estate of Jean Chase for waiver of dimensional standards to construct a single family residence on an existing small lot on Button Bay Lane. The property is in the Shoreland District (SD-2) and identified in Town of Ferrisburgh tax maps as parcel 12/01/35.

Norm Smith re-opened the hearing, which was recessed from the November 7 meeting, at 7:05 p.m. Jason Barnard of Barnard & Gervais LLC, a surveying and engineering firm, was present to speak for the application on behalf of the Chase family.

With the 100-foot setback required under the state's Shoreland Protection Act as well as the required front and side setbacks required by the town's zoning bylaws, there is essentially no place on the property to build. The lot, referred to in the application as Lot 12, abuts the northern boundary of another Chase-owned lot, Lot 11, which has an existing residence. The Chase family recently received approval from the Planning Commission for a three-lot subdivision on a 15-acre parcel across Button Bay Lane from Lots 11 and 12. That proposal includes building four mound systems, two of which would serve Lots 11 and 12.

To create a building envelope on Lot 12 without encroaching on the 100-foot shoreland setback, the applicants are proposing to seek variances so that the required 80-foot front setback is reduced to 20 feet, and the 25-foot side setbacks are reduced to 10 feet. Barnard provided the board with plans that show a building envelope within which a house could be built on the lot if the variances were granted. He said Lots 11 and 12 are separate parcels with separate deeds, and that easements are in place for Lot 11 for connecting to a wastewater system and a drilled well across Button Bay Lane, on another Chase-owned parcel. He said any home on the lot would not connect to the Vergennes Pantown Water District line, but could possibly connect to that source in the future if the district makes improvements to the line.

Zoning Board members said they had visited the site, and seen the location of the building envelope, which was staked out by Barnard & Gervais. Board members said it would be difficult to approve building a house on the site without knowing more about the design, as

well as other issues such as parking. Barnard said he and his client envision a two-step process, in which they seek variances from the Zoning Board, to ensure that they can build on the lot, and then come back to the board with a detailed proposal for the house.

Norm Smith said he didn't like the two-step process, and thought it would be better if the applicants came to the board with a request for a Conditional Use Permit and a completed house design, at which point the board could consider the detailed plan for the house and the lot, along with any necessary variances. Barnard reiterated that it seemed difficult to imagine spending time and money on a house design without knowing the lot is buildable. He said the applicants expected that the next step, after receiving any necessary variances, would be to come back with a house design and plans for parking, snow removal, etc. He noted the Chase family does have a buyer for the lot, and that it is under contract.

Dave Mentzer said the board could approve the variances while providing the applicants with specific criteria about the plans for the house and the site. He noted the town would need to be careful, and ensure the scale and type of construction on the site fit in with the neighborhood.

Gregory O'Brien, who owns property south of the lot in question on Button Bay Lane, told the board he believes the lot does not meet the criteria in the town's zoning bylaws, specifically Section 5.7, which says existing small lots must be "in individual and separate and non-affiliated ownership from surrounding properties ... on the effective date of zoning regulations adopted pursuant to the Municipal and Regional Planning and Development Act." He said he had talked with an attorney about the issue and could get an opinion to share with the board.

Barnard said he had included in his submission to the board the opinions of two attorneys who read the bylaws as allowing the lot to be conveyed separately, since the lot meets requirements for water and wastewater easements on off-site locations.

Sean Dye, a realtor who is working with a potential buyer for the lot, read a letter from Diane Brady Haight to the board. She said her family has owned a camp on Button Bay Lane for more than 50 years, and she has spent summers there her entire life. She said she had recently been able to purchase her family's camp at 290 Button Bay Lane, and looks forward to keeping it in the family for generations to come. She said she supported the application from Joe Chase to receive a variance to allow the building of a home on Lot 12, and that her mother, Carolyn Brady, also a current homeowner on Button Bay Lane, is hoping to purchase the lot.

Norm Smith suggested O'Brien have an attorney submit an opinion to the board on the issue, sending it to the applicants and to Bonnie Barnes, zoning administrator, who will pass it along to the board members. Board members said there seemed to be enough uncertainty on this question that they might want to discuss the matter with the town's attorney, just to be able to offer clarity and consistency to applicants now and in the future. Board members also thought it would make sense to recess the hearing until their next meeting.

Dave Mentzer made a motion to recess the hearing until the next meeting. John Paul seconded.

During a brief discussion, Jason Barnard asked whether it would make sense to add detailed building plans to the application between now and the next meeting. Nancy Larrow, a realtor working on the sale of the property, said the potential buyers had no immediate plans to build on the lot, but obviously do want to know whether it will be possible. Norm Smith said he would like to see the application amended to say that the applicant is seeking a variance, meaning relief from dimensional requirements, rather than permission to build a house. The next meeting is scheduled for the first Wednesday in January, but since that is the day after New Years, the board considered changing the meeting to a week later, on January 9.

All voted in favor of recessing the hearing until the next meeting, now scheduled for January 9. **Motion approved.**

Approval of minutes from the meeting of November 7, 2018: Dave Mentzer made a motion to approve the minutes of November 7 as submitted. John Paul seconded. All voted in favor. **Motion approved.**

Adjournment: Dave Mentzer made a motion to adjourn at 7:57 p.m. John Paul seconded. All voted in favor. **Motion approved.**

— Respectfully submitted,

Tim Etchells