

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MEETING MINUTES
SEPTEMBER 12, 2017**

Present: Chairman Burt Riendeau, Kristin McKeon, Chris Oot, Alternates Roland Vollbehr and Lance Zinn

Absent: Harriet Davenport, Lucky Evans and Selectboard Representative Norman VanCor

The Zoning Board of Adjustment met at the Chesterfield Town Offices on September 12, 2017. Riendeau opened the meeting at 7:30 p.m. by welcoming everyone and explained the process of the meeting. He noted that there were only three board members present for this meeting. Riendeau appointed Roland Vollbehr in placement of Lucky Evans and Lance Zinn to replace Harriet Davenport for this meeting.

Hearings:

- **Chesterfield Board of Selectmen** request a Variance from Article II Section 203.2 of the zoning ordinance to permit the installation of photovoltaic solar array for generation of electric power up to 100kW. The property is located at the corner of Rt. 63 and Stage Road, Chesterfield, NH 03443 (Map 16 Lot A5) Residential District. (Continued from August 8, 2017)

Present: Board of Selectmen Brad Roscoe

Riendeau noted that he was not present at the August 8 meeting but he did listen to the entire tape recording prior to attending this meeting. He noted that Roscoe provided documentation to the board on questions asked at the August 8 meeting.

Roscoe spoke with the code enforcement officer regarding security fencing and he indicated that a 4 ft. fence was adequate being a chain link or agricultural fencing. Roscoe noted that arborvitae can be used as screening required that grows 8-12 ft. in height and is green year round. He replied to the question of single panels vs. double panels – Double panel installation is about 3 ft. at low end and 8.5 ft. at high end. The cost increases to \$20-30k of going to single panel for ballast installation. It will reduce the height by about 1.5 ft. to around 7 ft., depending on the angle.

Roscoe's response to the runoff from the panels – The area is very flat, installation should not affect the current overall drainage pattern, the ballast blocks will cover 1000 sq. ft of 42,000 sq. ft. total and the option would be to place fabric and stone under the installation. The ballasts would be pounded into the ground and would not cause any disturbance to the ground.

The town assessor noted that there shouldn't be any impact to abutters or safety concerns, no noise or odor or overhead glare due to the installation of the solar farm. Roscoe also provided a copy of the Study of Acoustic and EMF Levels from Solar Photovoltaic Projects prepared by Massachusetts Clean Energy Center and Tech Environmental Inc. dated December 17, 2012. Roscoe found nothing on noise caused by rainfall on solar panels. He noted that this is an ideal use for that property and the town will receive revenue.

Riendeau stated for following reasons for the Selectmen having to come to the ZBA is because the property is in a residential district and this is a commercial application. He also stated that application was submitted by the Board of Selectmen as the land owner representatives and the

people behind this is not a town project. Riendeau stated that the business will be owned, or partially owned, by a LLC for six to seven years as a commercial type operation. Riendeau stated that he views this to being a change in zoning to commercial inside of a residential area. The ZBA does not rezone property. Roscoe asked what the difference between this application and a private home owner having solar arrays and solar activity and selling it to the grid. Riendeau stated that it's a residential application which typically is a much smaller array and, as a home owner, the ZBA can do that. Riendeau stated that this town has not yet prepared for these bigger solar arrays. Riendeau felt that this application should come to the board under a planned development district as opposed to coming to a zoning board and getting a variance on a property. Riendeau asked if the BOS has considered taking this to the town under a PDD. Roscoe stated that he is working with a group of volunteer town residents to do this green project to try to produce enough power to supply all of the town buildings. The committee has set up an LLC but there are no investors yet. This is a community driven procedure and the only feasible way that this can be accomplished is to let an LLC do it. The committee is trying to get rid of any hurdles that will prevent an investor of putting money into this project. The selectmen heard the committee and want to move forward with this project.

Riendeau stated that we have a commercial application being asked for a residential zone. He feels that this is rezoning and he suggested that this should go through a PDD (Planned Development District) process where it is laid out as a business format. He added that the applicant knows exactly what is being put on that property and nothing else can be done and it goes to Planning. He stated that Planning has that opportunity to put it to town vote. Roscoe stated that the investors are "passive" investors. They have to be passive investors in order for them to qualify for the tax advantages. They will be putting up the money but won't have anything to do with the day-to-day operations.

Riendeau stated that there are no lot sizes established for solar arrays for how much coverage it should be. He added that we are way ahead of ourselves on saying that we can do that on a one acre lot in a residential zone. He stated that these investors may be passive investors but they are going to want to get a return on their investment and it should be up front on how much they are going to get on their return and he feels that this is a business. Roscoe stated that what we're doing is creating financing to get financing for the town. Roscoe was told by the Planning Board that he would have to take this to the ZBA.

McKeon questioned whether solar panels are considered a commercial activity.

Oot asked who was going to operate this venture and someone is going to administrative issues that are going to have to be taken care of. Roscoe replied that the investors are going to hire an accountant to take care of collecting money, pay the investors off and pay taxes and fees to the State. If something breaks, they will have to take care of it. Roscoe noted that solar panels are very low maintenance, they are robust and they usually last longer than the 20 year life expectancy; closer to 25 or 30 years.

Susan Lawson-Kelleher (abutter) recommended that this property NOT be rezoned to PDD use; for just one use for that property. It would be better for the town if that property has some flexibility. There are other things that the property can be used for without disturbing the soil. Barbara Girs stated that the selectmen are trying to do what is best for the town and the town will receive \$17,000 each year after the seven year contract is up.

Oot moved to close the public portion. Zinn seconded the motion which passed unanimously.

Discussion:

Riendeau stated that this is an investment group that wants to do the development on this property and that doesn't fit into a residential district. He stated that the town needs to prepare for solar issues. how to handle solar arrays and how solar arrays can be used in a residential zone.

McKeon stated that the hardship for this property is that it is potentially contaminated. She stated that she doesn't feel that this application is a commercial venture and solar array does not require that it be on commercial property. Riendeau stated that the town needs to spell out what kind of property it should go on.

McKeon moved to open up the meeting to the public. Zinn seconded the motion.

Vote called: McKeon - Yes; Vollbehr - Yes; Zinn – Yes.

The motion passed with three affirmative votes.

Roscoe stated that he will withdraw the application and hopes that the selectmen can answer some of these questions on a town level. He does not wish to continue this hearing. Riendeau stated that there will be no bias on the applicant's request.

- **Leslie & Jennifer Mattingly** request a Variance from Article II Section 203.6b of the zoning ordinance to permit construction within the front and side setback with a reduction of the nonconforming square foot and volume of the building within the setback areas

AND

Leslie & Jennifer Mattingly request a Variance from Article II Section 203.4c of the zoning ordinance to permit construction of a house that has a lot coverage of 14.3% where 10% is required. The property is located at 10 Silverdale Road, Spofford, NH 03462 (Map 5B Lot B22) Spofford Lake District.

Present: David Bergeron - Brickstone Land Use Consultant representative and Leslie & Jennifer Mattingly

Bergeron noted that these applications are contingent on each other.

Bergeron presented site plan copies of the existing structure setbacks and proposed structure setbacks. He noted that the lot has approximately 110 feet of frontage along the lake. The new house would sit 25 ft. from the water and both of the sheds will be removed. The current house sits about 9 ft. from the water. The new house would have portions that would be in the side setback on both sides. The current house has about 1,901 sq. ft./15,000 cu. ft. of volume within the setbacks and the proposed house would have about 1,100 sq. ft./14,000 cu. ft. within the setbacks. The house is expanding in the conforming area because the existing house is entirely within the setback, including the sheds and there is nothing in the conforming area of the lot. The footprint of the new house is 1,500 sq. ft. and there is more coverage being proposed. The total front setback is going from 1,675 sq. ft. to 1,026 sq. ft. The current house has crawl space and the new house will have a 4 ft. crawl space. There will be an attached garage in the conforming area of the lot. The total existing impervious lot coverage is 3,493, not including the solid deck (28.06%) (1,178 sq. ft. is just the house and the two sheds) and the total property impervious coverage for the proposed lot coverage is 2,229 sq. ft. (17.90%). Bergeron noted that they are proposing to do a walkway and driveway with pervious pavers. Riendeau stated that for the pavers to work properly, that is determined as to whether they are installed properly to get the

full benefit. He noted that the ZBA may not allow for the deduction of the pavers for that reason. Bergeron stated that the impervious area is approximately 1,225 sq. ft. The new house is going to be a two-story building. McKeon noted that the proposed house is going to be substantially bigger. McKeon also noted that this is not a year round home and there is a limit to the use of the building. Bergeron stated that the house was insulated and it had a heating system in it and is a four bedroom. One reason for the larger footprint of the house is that Mr. Mattingly would require a downstairs bedroom due to the result of a car accident and he can't get up and downstairs. Riendeau noted that it is only a three bedroom, according to the town records. McKeon added that the septic is only designed for a seasonal three bedroom and cannot be occupied between October 31 and May 1.

Bergeron noted that the proposed front porch is in the front setback. The existing building is currently two full stories. The total cu. ft. in the setback will go from 15,042 ft. to 14,019 ft., which will include the removal of the sheds. McKeon noted that the proposed house alone will increase to about 1,000 cu. ft. Bergeron stated that by moving the proposed house back 25 ft. will allow a better view for the abutting houses and by pushing the house any further back from the lake will take away the view of the lake of the applicant. They are proposing to do several things to help control the runoff into the lake from the sloping lot by using impervious pavers, a settlement area in the lawn to offset the runoff from Silverdale Road and doing infiltration strips around the house that will include a 2 ft. x 2 ft. stone trench.

McKeon noted that the present house is no longer in compliance with the current septic, so whether the applicant does nothing or whether they do a new house, the septic has to be brought into compliance and that has nothing to do with the ZBA. The current septic system is designed for three bedrooms and it is not designed for four bedrooms. Riendeau stated that the applicant has to have a septic design on record ready for failure. If there is a remodel with a potential year round use, the applicant has to have a state approved septic design.

McKeon moved to have a site visit at 10 Silverdale Road on October 10, 2017 at 6:00 p.m. and to continue the hearing on October 10, 2017 at 7:30 p.m. at the town offices. Vollbehr seconded the motion which passed unanimously.

Review Meeting Minutes

• August 8, 2017

Voting on the minutes: McKeon, Oot, Vollbehr and Zinn

McKeon noted that "on" should be removed from page two.

Oot moved to accept the minutes of August 8, 2017 as drafted. Zinn seconded the motion, which passed unanimously.

McKeon moved to amend the minutes of August 8, 2017, on page 2 under "The discussion was opened (second line). . .Roscoe" to remove the word "On". Vollbehr seconded the motion, which passed unanimously.

Other Business

McKeon moved to go into nonpublic per RSA 91-A: 3 II (L) to discuss legal. Zinn seconded the motion, which passed unanimously.

Riendeau moved to come out of nonpublic. McKeon seconded the motion, which passed unanimously.

McKeon suggested that the ZBA meeting start at 7:00 p.m. instead of 7:30 p.m. The board was reminded that the Rules of Procedure state that the regular meeting time is 7:30 p.m. The next meeting is scheduled for October 10, 2017.

Adjourn: *Vollbehr made a motion to adjourn the meeting. Zinn seconded the motion, which passed unanimously.* The meeting adjourned at 10:57 p.m.

Respectfully submitted,
Patricia Grace
Secretary

Approved

Burt Riendeau
Chairman, Zoning Board of Adjustment

Date