

Town of Chesterfield, NH
Zoning Board of Adjustment
MINUTES
February 18, 2020

Kristin McKeon, Chair, opened the meeting at 6:35 P.M. Also, in attendance, were John Zannotti, Joe Parisi, Richard Aldrich (arrived at 6:48) and Dara Carleton.

INTRODUCTION OF BOARD MEMBERS & BOARD OF SELECTMEN REP TO ZBA:

McKeon deferred this item and offered applicants a change of dates because not all five members are present.

ELECTION OF CHAIR AND VICE CHAIR:

Parisi moved to nominate Kristin McKeon as Chairperson of the Zoning Board of Adjustment. Zannotti seconded the motion. All are in favor. The motion passed.

ACCEPTANCE OF MINUTES:

McKeon moved to accept the minutes of the December 10, 2019 Zoning Board of Adjustment meeting as amended. Parisi seconded the motion.

APPLICATION #1: 6:45 PM

Joy Street LLC is requesting an appeal of an Administrative Decision made by the Code Enforcement Officer, Ted Athanasopoulos, in relation to Article 203.4c, Coverage: Building coverage shall not exceed 10% of the area of a lot. Total impermeable coverage shall not exceed 20% of the area of the lot to permit a pervious paving system. The property is located at 217 Route 9A in Spofford.

Attorney Mike Bentley is representing Joy Street LLC., owned by Robert and Christine Sugarman, and has chosen to proceed this evening with less than five members present. Bentley introduced a representative from the permeable paving company in Laconia that manufactured the pavers used at Joy Street LLC's property. Michael Day, the representative, presented a spec book/catalog, and gave a presentation about the pavers and the system used to install them. Day noted if a paver system gets clogged up to 99% it will still take nine inches of rain per hour. It was noted the average rain for this area is two inches. Day also noted there are layers of stone underneath the pavers, and within those layers is a microbial colony that collects fertilizer etc.

Aldrich questioned the life span of the product. Day stated the pavers are warrantied for life. System good indefinitely unless fills with fine sediment. Parisi questioned whether there was some type of maintenance plan for the product. Day stated there is no maintenance plan because the product has a 20-25-year life span in residential applications. Parisi stated an inspection would be the minimum maintenance plan. Aldrich questioned if there were local examples the members of the Zoning Board of Adjustment could view. Day stated Camp Spofford installed this paver system in front of the dining hall three years ago and there is another installation in Keene. Parisi stated if they are already installed there is no way to view the system underneath. He also noted the Chesterfield ZBA does not recognize permeable pavers.

Day stated one cannot use sand on this application and would use salt to turn ice back into water during the winter. Day noted the salt and other pollutants are filtered through the layers of the paver system. Parisi questioned what assurance there is that an owner will use salt not sand. Day stated owners would not use sand because they would want their system to function well. Parisi noted that there is no maintenance schedule and no guarantee it will be maintained properly. McKeon stated no inspection or maintenance could be an issue. There would be concerns about salt ending up in Lake Spofford, or it could affect underground springs. Day stated there is no maintenance or inspection requirements for residential applications.

Aldrich questioned if there was another surveyed plan as he believes the two scales on the map contradict each other. McKeon noted it is just the way it was labeled. Bentley stated this plan is an accurate depiction of the property.

Parisi questioned what pavers were already in place on the property. Bentley stated everything except driveway is completed. It was noted the pavers were not shown on the map provided.

Bentley reviewed the timeline of events. He stated Joy Street LLC filed an application with DES on April 4, 2019 to do 500 square ft. of paver replacement. That permit was approved. Someone contacted the Town at a later date, and Ted Athanasopoulos then contacted DES. On October 9, 2019 DES sent a notice to Joy Street LLC stating there would be inspection on October 15, 2019. The first application was for replacing pavers for an 80' x 2' walkway, a 4' x 50' walkway and a 12' x 12' deck for a total area of 504 square feet. On November 7, 2019 Joy Street LLC. Received a letter from Athanasopoulos stating the Town of Chesterfield does not recognize pavers as a permeable surface. It was stated the pavers needed to be removed by November 29, and the only pavers that can remain were those allowed by DES. Bentley noted the pavers that are installed today is what was allowed from DES.

McKeon noted a permit from DES does not mean you bypass the town and questioned if permits were taken out through the Town of Chesterfield. Bentley cited an older ZBA hearing from 2014 and McKeon noted one answer to one permit doesn't set precedents. Zannotti noted Bentley was presenting new documentation at that point that was not included in the package, and those documents should be considered as not received. Bentley stated he and McKeon went over the exact requirements for the package. The application states any further information should be included by the Thursday prior to the hearing.

Bentley noted inspection and maintenance schedules were touched upon and invited the ZBA members to come see the property. Aldrich questioned if Joy Street LLC will always own that property. Bentley stated no, but this system is better to protect the lake as opposed to water running directly down an asphalt driveway and that the pavers would be an improvement. McKeon noted if the Sugarmans asked for a permit from the Town, Athanasopoulos would have directed them to ZBA for a variance. It was noted Joy Street LLC is well over the permitted coverage area and is now adding to it. It was noted DES states clearly that you need permission from a local municipality.

Parisi stated it would be helpful to know what it was before and what it is now and what is proposed. He requested a list of square footage as to what was replaced.

McKeon asked if there were any public comments.

Jon McKeon, acting as a member of the Planning Board and Chair of the Board of Selectmen stated there are a few holes in this presentation. There are RSA's that are pre-emptive meaning the Town cannot be more stringent than what an RSA says. This is not one of those cases. If you look at the definition of impermeable, there was a proper way to avoid this. The process could have been looking at deeds, researching what has been done already on your property, come to the Town or consult with specialist. That did not happen. McKeon also noted that one of the reasons the Town of Chesterfield does not recognize permeable pavers is they are only as good as the installation. Keys may have done a great job, but we have no way of knowing because there were no inspections. There are three different times inspections should happen while pavers are going down and that did not happen. There is no way to check they were installed properly.

Norm VanCor, a Selectman, stated he was speaking as a neighbor and that he had correspondence from the chairman of Planning Board. VanCor wants to enter a letter to Fieldstone Land Consultants (He handed copies to Bentley).

Jeanny Aldrich, Selectman representative to the ZBA, stated as an observer she feels Bentley worked hard to put together this package, but it should be rejected on the basis the application is not fulfilled.

Bayard Tracey stated he was there as himself and as the Vice President of the Spofford lake Association. He stated the SLA is very concerned and is working hard to reduce runoff into the lake from the surrounding watershed. He stated to the extent that several parties, including DES, make recommendations or issue regulations, we listen carefully and act accordingly. This is done to provide the best management practices to fulfill our mission to maintain and enhance the lake's ecological, environmental and recreational character.

John Koopman, Planning Board member stated the Town has limited resources for monitoring or enforcing regulations or installations.

Bentley spoke to the application form and noted this is the first application since new procedures went into place. He stated there was nothing in the application explaining what to submit for an appeal and no checklist for an appeal, but the application states to follow the checklist. As result of several discussions with McKeon he submitted what he had and takes offense to the statement that he did not submit a full application. McKeon stated Bentley submitted what he should have and as the ZBA receives new applications they will find out where to tweak the newly revised ZBA application. There is an issue with getting out the certified letters and that is in the process of being addressed.

Jon McKeon spoke again and stated he wanted to clear that our regulations do not exclude installing pavers, it excludes them as being pervious.

Kristin McKeon states she is not closing the public hearing yet and asks if ZBA Board members have anything they want to discuss. Zannotti stated he has difficulty making a decision without seeing what it was, what it is, and what is coming. He is requesting a chart, not pictures. Bentley stated he would send that over for the next meeting. McKeon questions if ZBA members want to perform a site visit. Parisi stated not if the pavers are already installed. He noted there is a very structured way of putting these pavers together. At a site visit they will see pavers but not what is underneath. There is no reason to look at top of pavers.

Aldrich stated he sent in a request a month ago stating this application is incomplete and should be sent back. He stated the ZBA did a disservice to a client making him come in with an incomplete submittal, however the fact they submitted one shows they know they needed one. Aldrich stated a plot plan is best picture you can get and stated he did drive by and the property looks nothing like the submitted lot plan.

Zannotti stated the Planning Board reviews applications for completeness, ignores intent and just makes sure the application is complete. He suggested the ZBA may want to adopt that policy.

Kristin moved to continue the public hearing March 19 at 6:30PM. Zannotti seconds the motion.

Discussion: Parisi questions if the ZBA is accepting or rejecting this application and is not convinced that we need more information to make a decision on the application. He stated the ZBA can discuss this to see if the appeal has any merit at all. Zannotti stated he cannot decide without more information.

Zannotti votes no, Parisi votes yes, Aldrich votes no and the motion fails.

Parisi noted if put aside the incompleteness what we have is pavers that were placed in an area above and beyond what the DES had approved. There was an increase in impermeable area. That is what Athanasopoulos stated, and he is correct. There is now over 30% impermeable area on the property. The continuation of installation will expand it even further. They were able to replace and install what was allowed but the expansion is what he is having difficulty with. This should just get denied. Aldrich noted they will appeal. Parisi noted we can deny it and wait for appeal or we can tell them to come back with a complete set of information, so we have time to properly outline the reasons it is denied. It was noted Athanasopoulos provided what we needed.

Zannotti moves to deny the appeal of the Administrative Decision as presented by Robert Sugarman/Joy Street LLC for two reasons; In Chesterfield pavers are not considered permeable, and 2, the Code Enforcement Officer is correct because the pavers are not permeable and will increase the non-permeable coverage past the allowable point. McKeon seconded the motion

Zannotti votes yes, Parisi votes no, Aldrich votes no, McKeon votes yes. The motion does not pass.

McKeon moved to continue the public hearing until Thursday March 19 at 6:30PM. All are in favor and the motion passes by roll call vote.

Parisi moved to close to the hearing to public input. Aldrich seconded the motion and it passes by unanimous roll call vote.

APPLICATION #2:

Richard Youngman is requesting a variance from Article II section 206.3A: to obtain a special exception to allow manufacturing use on a lot in the commercial/industrial district. The property is located on Coachman Road in West Chesterfield.

James Phippard is representing Mr. Youngman and Barclay McFadden as well as Bradford machine. He noted the owner of Bradford Machine Company, Jim Hayssen, is here as well. Phippard stated he wanted to relocate his client to chesterfield from Brattleboro and noted all existing uses off Stowe Drive is industrial or commercial. Zannotti notes for the record he is a neighbor of Mr. Phippard but states it does not cause a conflict for him. Zannotti also questioned if this case should go to the Planning Board first. McKeon states there is no sense in Phippard spending money if we deny the application and that giving variance allows the client to decide to put funding into the project. It was noted the application states it is subject to site approval with Planning Board. If there are substantial changes to the plan, they have to come back to the ZBA. Parisi states he is uncomfortable bypassing the Planning Board. McKeon noted the waiver should come first before the presentation to the Planning Board. Zannotti noted there could be a joint meeting between both Boards.

Phippard request the ZBA consider the waiver first. He stated this is a huge decision for a company to make. He noted the Board requires a special exception to build. He stated preparation for the ZBA is simple compared to the site plan and application for the Planning Board. He noted it would be a three-month process and cost roughly \$30,000.00. It is a long expensive process. A Planning Board decision first would not make sense. Phippard stated most Planning Boards will not entertain an application unless you have gone before the ZBA first. VanCor stated that is why the BOS likes to have a member of the Planning Board on the ZBA to have complete knowledge.

Zannotti moved to accept the waiver. Aldrich seconded with the caveat that the ZBA would attend the Planning Board meeting to review the ultimate site plan. McKeon seconded and the motion passed by unanimous roll call vote.

Phippard stated the ordinance does allow manufacturing facilities by special exception. He noted the 42.3-acre lot, where they are proposing a new building, is located in commercial/industrial district. Phippard presented a preliminary plan that shows where the access points, driveway, and building footprint would be. He noted they may start with 30,000-40,000 square foot building and noted there is plenty of room away from setback. There would be over 50 parking spaces and the plan provides a turnaround like a cul de sac for emergency vehicles. Phippard noted there are two functional existing wells that were installed about 15 years ago and used to be part of the Stowe water system. A fire pond exists as well.

Phippard gave background information on Bradford Machine. He noted there are roughly forty full-time employees working two shifts. The first shift staggers arrivals from 5:00 AM – 8:30 AM. They leave between 2:00-5:00 pm. The second shift starts between 2:00 PM-3:00 PM, so there is an overlap.

That shift leaves at 1:00 AM. It was noted the second shift only works four days per week. On weekends, maintenance personnel would be on site.

Most of their deliveries are ups or fed-ex type vehicles. Up to three tractor trailers will make deliveries per week, and Phippard noted where the loading dock was shown on the plan. He noted Bradford Machine manufacturers for optical aerospace industries making parts for machines The tractor trailers will be delivering raw materials.

Phippard noted reasons this special exemption should be allowed including the fact that relocating his client to Chesterfield would not be injurious to neighbors. He noted several other businesses in that area in included Osterman propane, Foard Panel, Fed-Ex and United Natural Foods. Phippard stated although the area is zoned residential, there are no houses close to property. He also noted all the manufacturing will be done inside and there is no storage of materials outside. He stated metal scrap (primarily aluminum and stainless steel) is their most recycled product, there are no chemical processes inside, and the manufacturing does not involve odors or noise.

The total disturbed area will be just over 3 acres, noted Phippard. He referred to the chart, which he stated summarizes lot coverage as roughly two percent. Phippard noted there is adequate frontage and the business will not place an excessive demand on Town services. He noted there are no flammable products, and a fire pond is nearby. He also stated this will not generate traffic volumes that will overburden the roads. They plan to have a dedicated left turn lane for Stowe Drive, and indicated they would submit a traffic study for Planning and DOT. He noted employees would not be traveling on and out during peak hours. Aldrich stated he is concerned about the left hand turn and super saturation of traffic. Zannotti noted traffic is a Planning Board issue. Phippard noted their plan had to be approved by DOT.

Phippard stated they will be proposing to collect rainwater and the State will make sure they protect resources and will only be using one of the two wells on-site.

McKeon asked if there was any public comment. Fran Shippee stated this was a great idea.

McKeon moved to close the public comment portion of this meeting. It was seconded by Zannotti.

Parisi moved to approve a special exception under article 206.3a to allow Bradford Machine to build a manufacturing site in the commercial/industrial district in West Chesterfield as presented by Brickstone Land Consultant's January 21, 2020 conceptual plan, dated January 6 2020 & amended February 17, 2020. Zannotti seconded and it passed unanimously by roll call vote.

DISCUSSION:

McKeon noted the changing start time for ZBA meetings from 7:00 PM to 6:30 PM with hearings beginning at 6:45 PM. Zannotti noted he would have a problem May thru August with that time schedule. McKeon noted the second Tuesday of the month is voting and that is a problem for her. Monday would be best for Zannotti. Parisi says Monday could create conflict with the Planning Board meetings he attends. McKeon would prefer a different day. Parisi would prefer an earlier time.

OTHER:

Next meeting is scheduled for March 19, 2020 6:30

ADJOURN:

McKeon moved to adjourn at 10:09 P.M. Zannotti seconded the motion and it was approved unanimously by roll call vote.

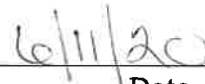
Respectfully submitted,

Dara Carleton
Secretary to the Zoning Board of Adjustment

Approved by:



Kristin McKeon, Chairperson



Date