

Town of Chesterfield, NH
Zoning Board of Adjustment
MINUTES
May 12, 2020

Kristin McKeon, Chair, opened the meeting at 6:30 P.M. Also, in attendance, were John Zannotti, Joe Hanzalik, Richard Aldrich, Lucky Evans, Joe Parisi (7:01 P.M.) and Dara Carleton.

As Chair of the Zoning Board of Adjustment, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 1-646-876-9923 and password 358120738 or by clicking on the following website address: <https://us02web.zoom.us/j/83818420726>

b) Providing public notice of the necessary information for accessing the meeting; We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the Town of Chesterfield website at: <https://chesterfield.nh.gov/>.

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem, please call 603-499-6534 or email at: Selectman-b@nhchesterfield.com.

d) Adjourning the meeting if the public is unable to access the meeting.

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

McKeon gave Bentley and Guida an opportunity to have the hearing continued because there are only four ZBA members present. Bentley prefers all 5 members hear the case. Guida wants to make call to client. Aldrich is in the process of trying to get Evans into the meeting.

ELECTION OF CHAIR AND VICE CHAIR:

This item will be tabled until next meeting.

ACCEPTANCE OF MINUTES:

Zannotti moved to accept the minutes of the February 18, 2019 Zoning Board of Adjustment meeting as amended. Aldrich seconded the motion and it passed unanimously by roll call vote.

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 This hearing is a continuance from February 18 and was re-noticed.

McKeon noted that this hearing has a narrow scope, which is whether or not the Code Enforcement Officer was correct or not in stating Joy Street, LLC. was in violation of the above Chesterfield ordinance. McKeon further noted that the Board is not looking at variance tonight.

Bentley asked if Evans ever saw the application for Joy Street, LLC. Evans stated he had not reviewed the application. McKeon asked Evans to be an alternate on this hearing and asked Parisi to take his place as a full member for this hearing. Parisi has reviewed the application and attended the last meeting.

Bentley stated that there is a conflict between the Shoreline Protection Act under RSA 483-b:4 ,VII-b, and Chesterfield Town ordinances in reference to impervious surfaces. Bentley stated his position is that the permit for the paver system was designed in accordance with the Shoreline Protection Act's definition of an impervious surface. He stated that the Code Enforcement Officer's decision is incorrect because his client complied with Shoreline Protection Act. McKeon stated that does not relieve the applicant of complying with Town permits.

Aldrich stated that a State permit requires Town approval. Bentley stated that the Town ordinance and the State conflict as far as the definition of pervious. Parisi stated that Bentley brings up the point that this is his interpretation of the RSA. Aldrich has a different one. Parisi strongly suggested we contact the Town attorney, John Ratigan for a legal interpretation. Aldrich asked if the applicant filed for a Town permit before work started. Bentley said no.

Parisi asked about the before and after calculations on the document submitted by Bentley at the end of last week. He asked why item #3, the 144 sq. ft., is a negative in the after case. After a brief discussion, Bentley disagreed and Parisi stated it would be a moot point anyway if Bentley felt his client did not need to comply with the Town.

Public Comment:

Margaret Halpert shed some light on raising hands within the Zoom platform.

Discussion: McKeon asked Parisi if he wanted the Board to touch base with counsel on this matter. Zannotti asked if that is something we need to do. He stated that the Board knows what is pervious and noted that they have direction from the chairman of the Planning Board and have the Town definition. He is not sure why we need to pay counsel to clarify. Parisi stated this is not a question about the ordinance and that he knows we do not recognize permeable pavers as pervious. Bentley is stating that the applicant does not need to apply to the Town for approval or abide by Town ordinances because DES's position takes precedence. Parisi stated that the cost of the Town attorney should be

minimal and would like to get this right the first time. Parisi stated that if we get it wrong the courts will be deciding this case. Hanzalik agrees with Parisi.

Parisi moved to continue this hearing until the next Zoning Board of Adjustment meeting and to solicit the opinion from Town counsel who has jurisdiction on this matter. Hanzalik seconded the motion.

Discussion: – Aldrich stated that this is a sophisticated applicant who had a chance to follow the rules but did not. Aldrich stated that the application is incomplete and noted that the application never stated what part of the Code Enforcement Officer's decision they are appealing.

Evans stated that it would be wise to seek council.

Parisi voted yes, Aldrich voted yes, Hanzalik voted yes, Zannotti voted no and McKeon voted no. This hearing will be continued to the next meeting.

McKeon stated that the Board is looking to change the date and time of the meetings and will notify Bentley immediately of the date and time of the next meeting. Bentley waived any issues with the date at this time. McKeon will pose the question to attorney John Ratigan before the next meeting.

APPLICATION #2:

West East Westmoreland Trust is requesting a dimensional variance under Article 503: Non-conforming buildings and Structures, subsection 503.1 – Expansion of non-conforming parts of buildings or structures. The property is located at 66 North Shore Road Spofford, NH 03462. (Tax Map 5C, Block C, Lot 8)

Chris Guida and Katie Sutherland are presenting for their clients.

Guida stated that he is a wetland scientist and soil scientist who works for Fieldstone Land Consultants and is working with West East Westmoreland Trust at 66 North Shore Rd. to allow for renovations and repair to the existing building which was built in 1953. He stated that the original foundation is in dire need of repair and that there are other structural repairs needed to sustain it and bring it up to code. Guida is proposing rain gardens and storm water filtration trenches and swales. He provided plans showing the existing impervious surface and stated their proposal will cause a reduction in impermeable surface down to 43%. Guida stated that the paved driveway now creates stormwater running down the drive and eventually into Lake Spofford. Guida noted that this is a good opportunity to restore drainage and repair that situation so there is no direct drainage. The design includes a driveway and garage to allow for parking and gentler slopes. It was noted that the proposed garage has a green roof.

Sutherland referred to diagrams in the application and spoke about building elevations and a net reduction of volume to be removed.

Zannotti noted that looking at the plans raised questions about the revision dates. There is a large plan in the packet dated 2018 that refers to revision A, but what we have in the packet is revision B which was revised for the Town variance exhibit. Zannotti asked what had changed in the revision. Guida explained there were different requirements for the State and the Town and was trying to make clear what they are proposing for pervious vs. impervious. Zannotti stated that the numbers are different on both plans and they do not match. Zannotti stated that the difference was not significant but confuses what is actually happening. Guida stated that retaining walls and planters could account for the discrepancy.

Aldrich stated that according to the Town of Chesterfield Master Plan, the property is a developmentally constrained area due to poorly drained soils on the edge of Spofford Lake and the age of the house indicates there must be an issue with the septic system. McKeon noted that Aldrich had a valid reason for discussion but requested Aldrich allow Guida to finish his presentation first.

Guida stated that the owners are trying to renovate, as well and provide stormwater management. He stated that this allows the building to be brought up to code and will stop erosion into lake. He stated that the owner really wants to improve the lot and comply, which is why we are here for a variance.

McKeon noted, for Guida's information, that there was never a request for a variance on the shed and that it is not in legal compliance.

Zannotti noted that there is a discrepancy on the calculation sheets and is still unclear about which revision the Board would be approving and stated that he is not understanding what Guida is presenting. Guida stated that the numbers should correspond and that he would have to look into that.

McKeon feels strongly about doing a site visit

Public Input:

Margaret Halpert asked if the public is allowed to see documents in the application and asked how she could go about that. McKeon noted that Halpert should contact Carleton to obtain digital copies of those documents.

Gary Winn stated that his initial reaction was that there would be little impact on our (Winn) property to the east. The porch on this property is ten feet from Winn's property line and overlooks his picnic area already without adding to height. Winn stated that about 500 sq. ft. will be added to the second floor and noted that the roof is in the lake setback. It will be narrower but will extend further. Winn noted that the change is beyond cosmetic improvements/modernization and cannot concur with Guida's conclusion that it was not adversely affect neighboring property values.

Winn also noted that the property card notes multiple kitchens. There are rumors of three, but the Town shows at least two. Is this a single-family home or an approved accessory dwelling unit? Multiple kitchens piqued my curiosity and I am not sure anyone from the Town has looked into the apartment. Winn takes objection to the portrayal as a five-bedroom residence. The Town shows a three-bedroom dwelling, but the septic system is only approved for two bedrooms. Until 2 years ago, the majority of the time that dwelling was only occupied by 2 people. Winn stated that the property card requires correction.

Winn stated that he hopes the two porches are not included in Guida's reduction of volume as they are not considered living space. Winn also questioned the ceiling height in certain areas because if they are less than six feet, they cannot be included in the living area. Winn strongly suggest the ZBA looks at that in person and thanked the Board for the opportunity to speak.

John Koopman stated that he is seeing the effect of renovations on Spofford Lake. Koopman stated that the garage is convenient but not necessary as it increases coverage. Koopman also asked how a site visit would work with the Covid-19 restrictions in place about public gatherings of more than ten people.

Zannotti asked if it would be appropriate to ask that Fieldstone Land Consultants submit a clean application packet with the correct plans. The revision numbers are not clear.

Parisi noted that the Town has stopped in-person meetings and Boards meetings are being done virtually. Is having a site visit in line with the Towns' current guidelines?

Jeanny Aldrich, Chairman of the Board of Selectmen, asked short of doing a virtual tour how do you do accomplish a site visit? Zannotti suggested the Board videotaping a virtual tour could be a solution. McKeon stated that she prefers to see the property in person. Aldrich stated that the Board of Selectmen can discuss that question tomorrow night at their meeting.

McKeon moved for the Zoning Board of Adjustment to have a site visit at 66 North Shore Road, pending the outcome of the Board of Selectmen meeting tomorrow night, on June 4 at 3:00 P.M. Zannotti seconded the motion and it passed by unanimous roll call vote,

Public input:

Burt: For the site visit, how does the public hear everything being said at the site visit?

Hanzalik asked if people are speaking, could they please give their address. Burt stated that he is from Spofford.

Margaret Halpert suggested that members could have Zoom on their phones, if they have service, so the public could hear during the site visit.

Jeff Scott noted that if the roof is raised 6' it may affect the view of residents across the street. That issue has come up in the past with the raising of roofs.

DISCUSSION:

There was a brief discussion about changing the day and time of the Zoning Board of Adjustment meetings.

McKeon moved to change the meeting date and time of the Zoning Board of Adjustment meetings to the second Thursday of each month at 6:30 P.M. Hanzalik seconded the motion and it passed by unanimous roll call vote.

OTHER: Corrections to February 18 minutes from Parisi:

A request was made to use the word asked instead of the word questioned.

On page 5 of the February 12 minutes, paragraph 2, "Parisi notes for the record he is a neighbor of " Mr. Hayssen, and not Mr. Phippard.

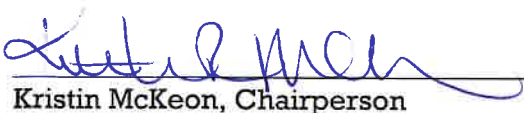
Also page 5 paragraph 2 – Parisi suggested the ZBA attend the Planning Board meeting.

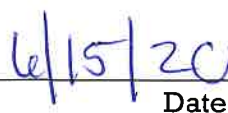
ADJOURN:

McKeon moved to adjourn at 9:13 P.M. Evans seconded the motion and it passed unanimously by roll call vote.

Respectfully submitted,

Dara Carleton
Secretary to the Zoning Board of Adjustment
Approved by:


Kristin McKeon, Chairperson


Date