

## Zoning Board of Adjustment

October 15, 2019

### Meeting Minutes

#### 1. Introductions

Board members present at the meeting were Willis Wood, Todd Hindinger, James Cahill, and John Broker Campbell. Sven Fedorow, land use administrator, was also in attendance.

There were no audience members.

Prior to the meeting, there was a site visit at 5:00 PM at 157 Moore Drive (parcel ID 040229.7). All of the above-Board members attended.

#### 2. Call to order

Willis Wood called the meeting to order at 5:50 PM.

#### 3. Additions to the agenda

Todd Hindinger would like to discuss the position of lawyers in representing applicants. The Board would like to brainstorm for new members.

#### 4. Public Hearings

- (a) Continuation of 11 July 2019 appeal of Zoning Administrator decision regarding whether “junkyard” exists at 157 Moore Drive (parcel ID 040229.7), C10 zoning district

Willis Wood opened the hearing at 5:54 PM. The Board reviewed the documents that had been previously presented. In a letter dated May 2013, deForest Bearse did not find it a junkyard. Hal Wilkins wrote a letter dated December 20, 2017, that the Town’s attorney that stated it was a junkyard and Hal Wilkins will be issuing a notice of violation the following week. Sven Fedorow could not find a notice of violation or communication from the Town’s attorney in the file. Vincent Chiorgno wrote on June 24, 2018 that he will work with Daniel Barbour the next several months to be in compliance. He sent Sven Fedorow an email on May 23, 2019 that it was resolved with Daniel Barbour and it was closed the year before. On November 20, 2018, Barry Polidor spoke with Sven Fedorow and the Town manager, Barry Polidor said that they said that it was the worst junkyard that they had seen. Sven Fedorow stated that he did not say it was one of the worst junkyards. Sven Fedorow stated on November 8, 2018 that it was not a junkyard. In July 2019, Daniel Barbour wrote a letter stating that deForest Bearse, previous Zoning Administrator, and the State of Vermont said it is not a junkyard.

Sven Fedorow stated that he has been up to the property three times. There has not been substantial change. He did not go up to the sugar house. Based on his last observation from the last site visit, it is not a junkyard. The Town's Bylaws are not intended to tie in with the State's. If it was deemed to be a junkyard, not all of the items would need to be removed to fall under the threshold that triggers a junkyard. He stated that the State views vehicles differently. They call contractor's equipment yellow metal and then there are cars and trucks. He relied on the State's specialist, Vincent Chiorgno, in regards to yellow metal. He could not get Daniel Barbour to meet him at the site. Sven Fedorow trusted Vincent Chiorgno when he said that some of the vehicles would start. Sven Fedorow stated that Barry Polidor wants the Town to enforce it and be stricter than the State. In late 2017, the State specialist deemed it not a junkyard and closed the case.

Willis Wood referred to Exhibit #5, #15 in regards to an automobile graveyard vs. a hobbyist. Todd Hinderger referred to Exhibit #2, the survey from Bruno, that the right of way is not clearly defined. He is not confident that some of the items are not on the Lewis's property. The pins are not there, nor are the monuments. The party that is appealing could not convey the property lines to the Board. John Broker Campbell agreed that he would like to know the property boundary lines too. The Board can see the location of the house on Lot 4 and the sugar house.

Exhibit #9 is a list of yellow metal, vehicles, and miscellaneous items seen at the site visit. The large skidder and blue 1 Ton pickup have been removed. There was a fridge, truck bed sander, 55- gallon drum, and engine & transmission on the west side of the right of way. In regards to vehicles/yellow metal, there was an old ambulance, trailer cab box, small dozer on the lower parcel, old railroad truck, crushed old pickup truck, large box trailer, small riding mower, small dozer higher up on parcel, a red tractor, and a green tractor.

John Broker Campbell made a motion to close the hearing at 6:35 PM. Todd Hinderger seconded it. All were unanimous to close the hearing.

#### 5. Approval of Minutes – 12 September 2019

Todd Hinderger made a motion to approve the minutes of September 12, 2019 as corrected. Willis Wood seconded it. James Cahill abstained. Willis Wood, Todd Hinderger, and John Broker Campbell voted in favor of approving the minutes.

#### 6. Lawyers representing applicants

Todd Hinderger stated that when a lawyer is representing his client, he/she needs to provide truthful testimony at the hearing. Sven Fedorow stated that the attorney could sit next to his/her client and whisper in their ear. The lawyer does need to be affirmed. Todd Hinderger stated that if the attorney does not affirm, he/she will be listened to, but it might not be fact. The lawyer is not doing arguments in front of a jury. The Board makes their decision based on people that have been affirmed. James Cahill stated that the attorney could say he/she is not presenting evidence, but just representing his/her client(s). John Broker Campbell stated that the Board could tell any person that if he/she does not affirm, it does not carry the same weight

as if someone did affirm. Sven Fedorow stated that the representative could use leading questions in the hearing to his/her client. Todd Hinderger stated that the attorney could ask the questions of his/her own client, but not other audience members. He proposed looking into performance standards. Willis Wood stated that the Board does look at them to see if they are being met. Sven Fedorow stated that in appeals and enforcements, the Board does not have to look at those standards.

Sven Fedorow stated that the Board could be a “on the record Board”. Any evidence not presented in the hearing, nor argument could not be brought up in the environmental court. The testimony would be on the record. The meetings would be recorded. The Board asked Sven Fedorow to provide them with more information about on the record Board.

#### 7. Adjournment

John Broker Campbell made a motion to adjourn at 7:23 PM. Todd Hinderger seconded it. All were unanimous to adjourn the meeting.

Respectfully submitted,

Diana Stillson