

Zoning Board of Adjustment

August 18, 2022

Meeting Minutes

1. Introductions

Board members present at the meeting were Todd Hindinger, David Gulbrandsen, Willis Wood, and Joseph Bublat. John Broker Campbell and Jaime Wyman participated via zoom. Ryan Gumbart, land use administrator, was also in attendance.

The audience members were Jessica and Kalem Taft, Nancy and Dwight Phelps, Greg and Mandy Martel, Chris Yurek, and Jessica Louisosjeyer.

2. Call to order

Todd Hindinger called the meeting to order at 7:07 PM.

3. Agenda Review

The Board moved discussion of meeting dates up on the agenda. Joseph Bublat made a motion to move the meeting dates to the second and fourth Tuesday of each month at 6:30 PM and adjust the Rules of Procedures. John Broker Campbell seconded it. All were unanimous.

Todd Hindinger made a motion to change Section 6, letter J, in the Rules of Procedure to suspend required mask wearing for the time being. Willis Wood seconded it. All were unanimous.

4. Comments from Citizens regarding items not on the agenda

There were none.

5. Approval of Meeting Minutes – June 9, 2022 & August 4, 2022

Willis Wood made a motion to approve the minutes of June 9, 2022 as presented. Todd Hindinger seconded the motion. Joseph Bublat and John Broker Campbell abstained. The motion passed.

Joseph Bublat made a motion to approve the minutes of August 4, 2022 as corrected. John Broker Campbell seconded it. David Gulbrandsen and Willis Wood abstained. The motion passed.

6. Public Hearing: Application 12.07.13. CU by Greg and Mandy Martel

Todd Hindinger opened the hearing by reading the Warning at 7:24 PM. David Gulbrandsen was at a Planning Commission meeting involving the Martel's and made some comments. He will recuse himself from this hearing. Joseph Bublat, a Planning Commission member, feels that he can be fair at this hearing. Todd Hindinger did a leach field for the Martel's about 15 years ago and helped in February on this one. He also feels that he can be fair too. Jaime Wyman has property in the village and will not be participating in this hearing either. There has been no exparte communication.

Greg Martel, Mandy Martel, and Jaime Wyman affirmed and have interested person status.

Exhibit #1 is the Notice of Public Hearing and certification of posting. Exhibit #2 is the Conditional Use Application, zoning permit application, fee receipts, and survey with handwritten dimensions. Exhibit #3 are Heidi Mitchell letters dated July 13, 2022 and February 7, 2022. Exhibit #4 is an email from ANR Fish and Wildlife to the Martel's (2 pages). Exhibit #5 is a survey for Heidi Mitchell's subdivision revised July 12, 2022. Exhibit #6 is the Zoning district map. Exhibit #7 is the ANR permit navigator sheets (10 pages). Exhibit #8 is the ANR natural resources atlas aerial photo of the area. Exhibit #9 is the conditional use worksheet. Exhibit #10 is the zoning permit application. Exhibit #11 is the community facility project review sheet.

Ryan Gumbart stated that the Martel's are looking to build a single family home in a highway commercial district. They will be making their driveway from an old logging road and will have access off Route 131. ANR did a site visit and there is not a deer wintering area on this parcel. The site plan has been updated to show that.

Mandy Martel stated that it will be a small single family home approximately 1,200 to 1,500 square feet on 3.5 acres. She showed the Board its location on the map. Willis Wood stated that there is only one principal use allowed per parcel for this district. Greg Martel stated that they own the garage shop below and the house. They want to be off Route 131 due to the noise. Ryan Gumbart wrote on the older survey the setbacks (Exhibit #2). He stated that he has letters from Heidi Mitchell stating that the Martel's may speak on her behalf. She is the owner of the property that the Martel's will be purchasing. He has emails from her too.

Mandy Martel stated that prior to her father-in-law's passing, he spoke with Heidi Mitchell in regards to selling some land. Then, they approached her. The Martel's have covered the costs for this project so far. Heidi Mitchell has signed the documents as the landowner. The leach

field will be on 3.5 acres. The septic is in the works. Gary Rapannotti has done some tests on the site and sent them to the State. Due to the Bylaws not being changed, he asked to have them sent back. They have to be changed and resubmitted. The dotted line on the site plan will be their driveway. It is an old logging road. Their other property will abutt this property, but will be separate parcels.

Greg Martel stated that their parcel will be located behind Jeff Spurr's and behind the storage units. There is a cell tower located up there. They will not have to do much to create a driveway due to the cell tower road and the old logging road. John Broker Campbell wanted to know why there are six wells on the 13 acres according to Exhibit #8. Greg Martel has not seen those wells. He stated that they will be getting their power from the cell tower power source, or off of Route 106. Ryan Gumbart stated that a stormwater permit was not required. He also started filling out the conditional use checklist per the request of the Planning Commission. Todd Hinderger went over the checklist with everyone. He asked if anyone had any further questions. Jaime Wyman stated that she was all set. She did not have any questions, or comments.

Willis Wood made a motion to close the hearing at 8:15 PM. Todd Hinderger seconded it. All were unanimous.

7. Chris Yurek - Mt. Ascutney Regional Commission, Parcel # 12-00-42, to seek conditional use permit

Todd Hinderger opened the hearing by reading the Warning at 8:23 PM. Willis Wood and John Broker Campbell recused themselves from this hearing. The Board had no ex parte communication, or conflict of interest. Chris Yurek, Jessica Louisosjeyer, Dwight and Nancy Phelps still have interested person status and affirmed.

Ryan Gumbart stated that the original packet contained 16 pages. Then he received more information from SLR and the highway department sign off sheet. Exhibits #1 - 12 were presented at the previous meeting in March. Exhibit #13 is the Conservation Commission Report (2 pages). Exhibit #14 is the ANR order approving the application to alter the dam (8 pages). Exhibit #15 is the stormwater discharge permit 3-9020 (6 pages). Exhibit #16 is the SLR hydraulic modeling report (6 pages). Exhibit #17 is the SLR memorandum dated June 24, 2022 (original) and revised August 11, 2022 (4 pages). Exhibit #18 community facilities sign off sheet with additional comments from the highway department.

Todd Hinderger reviewed the Conservation Commission report. The Commission is concerned about restoration of the site. They would like the Board to require habitat restoration for the various species. The Commission also wanted to know how it would be managed over time for naturalization. In the information that has been provided for this project, it looks like only seed and mulch are mentioned. Chris Yurek stated that is correct.

They want to avoid showing plantings at this time. They usually work with watershed volunteer groups vs. hiring contractors. Jessica Louisosjeyer stated that they like to have community involvement vs. a contractor. Their plans do not show species for this site. Their plans have been reviewed by the appropriate State agencies. David Gulbrandsen wanted to know how much habitat and trees will be removed. Jessica Louisosjeyer stated that it is unnatural now with the fill and holding back the water. It is an unnatural pond. The restoration will be removing the fill & slit and planning native species there. It will take time for plants and seeds to establish. The dam was built in 1903.

Ryan Gumbart stated that the Commission would like more details on the long term plans. Chris Yurek stated that they don't know about the long term plans. Jessica Louisosjeyer stated that removing the dam will remove the risk due to the condition of the dam. It is not the goal to change the land use, but to remove a man made structure and bring it back to a natural habitat. The Board asked if they were opposed to doing a plan. Chris Yurek stated that the watershed group would be using small saplings and volunteers. He suggests that the language could be in consultation with the Conservation Commission. Ryan Gumbart stated that it is not just for soil erosion, but for the long term of the land.

Todd Hinderger stated that according to Exhibit #14, it needed to be recorded in land records by May 15th. Chris Yurek stated that it has been and they have no concerns with the contractor in regards to Exhibit #15. Jessica Louisosjeyer stated that on Exhibit #16 the existing flow upstream is higher and it's lower downstream. Post removal of the dam, both would use the upstream flow number. It accounts for 0.1 to 0.2 feet rise.

Todd Hinderger mentioned that since it is changing the actual site, does it need to have a letter because it's changing the FEMA map. Jessica Louisosjeyer stated that it has been addressed with the State. This area is an approximate flood plain. There is no detailed study for Zone A. Exhibit #9 addresses it. Todd Hinderger stated that it's in the first paragraph which references documents to give to FEMA. Jessica Louisosjeyer thought these were not required.

Dwight Phelps stated that he met with Jessica Louisosjeyer and Roy and discussed issues. They have not come up with any conclusions as of yet. The Phelps's are comfortable with everything right now. The Phelps's discussed options for access to the culvert with them. Todd Hinderger asked if they discussed closing the supply pipe and the title to that area. Dwight Phelps stated that they did talk about the pipe, but not the title. He stated that SLR was going to talk with the Town of Springfield about that matter. Chris Yurek stated that he does not imagine this to be a problem.

Jessica Louisosjeyer stated that the Town of Springfield wants to cap it, but had no conversations about the title. Dwight Phelps showed them a source hole on his property that was used to form the dam. They could get some fill from the dam and fill that hole for the Phelps's. The plan was for removal of the culvert on the north side, but could access it on the

south side with the Phelps's trail and put some fill on the trail. They do not have the US Army permit yet. They have had some conversations about the permit, but they do not know when it will come in. They need this permit to do the project. Rebecca said it can happen, but is waiting for some information before she does her final letter. She is waiting to see what happens with the Zoning Board.

Todd Hinderger wanted to know information about the endangered northern long ear bat. Jessica Louisosjeyer stated that it could be in the area, but they could have specific limitations on what trees may be cut. The US Army Corp letter would have that condition.

Todd Hinderger reviewed the highway department concerns. They would like the wheel ruts repaired, reduce speed, and respect the residents of the area. They would prefer the trucks to go downhill. Jessica Louisosjeyer stated that they would not like to have a condition for the direction of leaving the road. They would fix the wheel ruts and do a walk with the road crew. Ryan Gumbart stated that the highway department might have more comments depending upon the direction the trucks are going.

David Gulbrandsen made a motion to close the hearing at 9:22 PM. Todd Hinderger seconded it. Joseph Bublat abstained. Jaime Wyman, David Gulbrandsen, and Todd Hinderger votes in favor of the motion. It passed.

8. Taft Informal discussion

Ryan Gumbart summarized the Town's attorney, Peter Raymond, comments in regards to the two questions the Board asked him. Ryan Gumbart did not share the email response due to client privilege. He stated that there are no official definition of additions, but living space is an addition, as is adding a second story. The conditions from the Environmental Court could be amended by the Zoning Board. They must apply with the Zoning Bylaws though. David Gulbrandsen stated the Taft's should go to the Environmental Court.

Jessica Taft stated that it looks like the Board could amend it if we were to apply again. We could build up and have the condition changed. Todd Hinderger stated that the applicants would need to meet with Ryan Gumbart for an application and provide documentation at that time. None of the items are guaranteed. You need to read the summary very carefully. There are certain options that are listed. Kalem Taft mentioned that they spoke with a surveyor and had him send the survey to Gary Rapannotti. Option 2 for them would be to have it surveyed and have a new plan. They could get rid of the deck and go up. It would have the same square footage.

Todd Hinderger stated that they could come back to the Board with an application when you are not making an addition. David Gulbrandsen stated that he feels it is inappropriate if there has already been a decision made on this. The Board does not make suggestions. The

applicants need to see Ryan Gumbart, the Zoning administrator. The Board is approaching exparte communication. Ryan Gumbart stated that he will work with them and explore the options. If they can come up with an application, they will come back to the Board. Ryan Gumbart stated that they have the information from the lawyer and can see if it can be amended. Jessica Taft stated that they will apply again and see if it gets approved or denied.

9. Member training
10. Meeting dates - see above
11. Communication with other boards and committee
12. Zoning Bylaws update
13. Zoning maps
14. Discuss of items for future agendas

The Board's next meeting is September 13, 2022 at 6:30 PM.

15. Adjournment

Daivd Gulbarndsen made a motion to adjourn at 9:45PM. Joseph Bublat seconded it. All were in favor.

Respectfully submitted,

Diana Stillson