

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

State of Rhode Island
County of Washington

In Hopkinton on the twenty-first day of March, 2019 A.D. the said meeting was called to order by Zoning Board of Review Chairman Jonathan Ure at 7:00 P.M. in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Jonathan Ure, Joe York, Michael Geary, Dan Harrington, Ronnie Sposato, Alternate: Dan Baruti; Solicitor: Mike Reilly, Esq. of Assalone & Associates LLC, Town Council Member present: Barbara Capalbo

Alternate Zoning Board Clerk: Tiana Zartman

Building Official: David Rodio

Absent: Deputy Zoning Official: Sheri Desjardins

Absent: Zoning Board Clerk: Elizabeth Monty

Absent: Philip Scalise

Chairman Ure read into the record past Chairman Philip Scalise's formal resignation letter. Chairman Ure thanked Phil for the years of experience and service he provided.

Sitting as Board for Petition I: Ure, York, Geary, Sposato, Harrington

Petition I – determine completeness of application/consider waivers and hearing continued from February 21, 2019 meeting.

A Petition for a Special Use Permit filed by Kevin Ward, with mailing address of 568 Main St, Hopkinton RI 02833, on behalf of himself and his spouse, for property owned and located at 568 Main St, Hopkinton, RI 02833 identified as AP 10, Lot T86 an RFR-80 Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

A MOTION WAS MADE BY RONNIE SPOSATO AND SECONDED BY DANIEL HARRINGTON TO CARRY PETITION I OVER TO THE APRIL 18, 2019 ZONING BOARD MEETING. ALL WERE IN FAVOR.

SO VOTED

Sitting as Board for Petition II: Ure, Harrington, York, Geary, Sposato
Alternate Baruti recused himself from this Petition

Petition II – Determine completeness of application/consider waivers, continued from February 21, 2019 meeting.

A Petition for a Special Use Permit filed by Louis Raymond and Richard Ericson on behalf of themselves, with permission from property owner, Robert McKay, with mailing address of 2160 Rowley Way, Ballston Spa, NY 12010 and located at 1 Clarks Falls Rd, Hopkinton, RI 02833, identified as AP 26, Lot 10 an RFR-80 Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

A MOTION WAS MADE BY RONNIE SPOSATO AND SECONDED BY MIKE GEARY TO TABLE THIS PRE-APPLICATION UNTIL THE END OF THE MEETING. ALL WERE IN FAVOR.

SO VOTED

Sitting as Board for Petition III: Ure, York, Baruti, Geary, Sposato
Member Harrington recused himself for this Petition

Petition III – Hearing, continued from February 21, 2019.

A Petition for a Dimensional Variance filed by Kelly Fracassa, Esq. on behalf of Thurston F. and Cherie J. Ponte, with mailing address of 25 Keith Drive, Hope Valley, RI 02832, for property owned by them and located at 25 Keith Drive, Hope Valley, RI 02832 identified as AP 18, Lot 65 an R-1 Zone and filed in accordance with Section 9 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant Sherri Ponte of 25 Keith Drive is present.

Mrs. Ponte explained that Thurston and herself met with the Dealmo's and presented an option of removing the camper for as long as their home is for sale.

When the Dealmo's post their house for sale, the Ponte's will remove the camper.

When the house is closed, the Ponte's will return the camper to their home.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Chairman Ure: So they're listing their house for sale?

Mrs. Ponte: Correct.

Member Sposato: Did you guys come up with a timeframe for that?

Mrs. Ponte: We do. Approximately, we said in the agreement April 15th, but it'll probably be more like the beginning of May. We have until December 15th, or if they sell before that, whatever comes first.

(Board is having Discussion)

Mrs. Ponte: During this time that their home is listed for sale, before it's sold and before it's closed on, we will still have the option of bringing it (camper) home from storage to pack and unpack when we use it. So that's not in question as far as I know.

Chairman Ure: So your understanding of your agreement is that the camper shall not remain on the property in storage from the time he starts listing his property to the time it's sold? Or until December 15th.

Mrs. Ponte: Correct.

(Discussion between board members)

Mrs. Ponte: That was my next question. This will have no bearing on my deed, or my zoning, or anything. It's going to be recorded in the minutes and that is all. There won't be any legal stipulations of my property and its use?

Member Sposato: That's what we just discussed. The agreement between you will have no bearing on your deed or anything else.

Mrs. Ponte: There'll be nothing listed in the zoning that my lot has a restriction on it?

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Chairman Ure: No.

Mrs. Ponte: Okay.

Chairman Ure: As Ronnie clarified, and the solicitor agrees with him, we're here solely on the building. That makes sense. The agreement between the two of you, I would expect you to honor it. Same with you, I know he's got some stuff to say, so we'll let him have a second –

Mr. Dealmo: I do not have a lot to say. It was – we spent, I don't know, an hour or so among all of us trying to come to some sort of compromise. And so we did. I get it when you say it's not part of this hearing.

Member Sposato: No, it's not. It's a legal document between the two of you.

Mr. Dealmo: We're just arbitrating between us?

Member Sposato: On the camper. We're going to make a decision on the building.

Mr. Dealmo: Okay.

Member Sposato: That's a separate thing.

Mr. Dealmo: Okay. So you don't even want any of this? You don't want to hear it, don't want to see it?

Member Sposato: No. The lawyer says it's a binding agreement between the two of you.

Chairman Ure: It's a personal agreement.

Member Sposato: It's a personal agreement between the two of you. The camper is not violating any of our ordinances.

Mr. Dealmo: Okay because this is what we're basing our lack of objection on to the building.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Member Sposato: Correct. And if they don't, or either one of you breaks the contract, they're going to have good grounds to sue you.

Mr. Dealmo: Okay. So then we don't have any objection to the variance.

Member Sposato: And we appreciate you guys getting together and meeting and being able to work that out between yourselves.

Richard Noel: I have a couple of things I would like to add to the record.

Chairman Ure: If you want to come up, just state your name for the record.

Richard Noel: My name is Dick Noel. Richard Noel. I live at 39 Lisa. I expected to speak at the original hearing, but that didn't happen. And I'm glad that it didn't because some of the things that just came up are things that occurred to me as an abutter. First of all, there were two reasons that were offered requesting the variance. One was that they went over the property and they discovered that there was no way to conveniently move it. The second was there would be some expense involved in moving it, but no cost if you didn't. And so I just want to go over a couple things. First of all, there are thirty six single family homes in that development. Each of them has a home, a two car garage, a paved driveway that was all required for the buildings. In addition, they've all got a septic, they've all got a well, and all that stuff that was being offered, underground utilities. Most people have a shed. That pretty much fills up an acre. And so the problem is that when you start adding RVs and outbuildings, and a barn and a trailer, a camper, pretty soon there's nowhere to put it on the property without encroaching on the setback requirements. You can't comply with the zoning if you put all that stuff on your property. And so the problem there is that if you add all of that stuff, and you

need room for all of that stuff, it just seems to me that maybe a one acre lot is not really appropriate - it's not the best fit if you have all of that stuff. And there are plenty of places that are a good fit, but I don't think being in the middle of that neighborhood is the fit. The second thing is that there's apparently no cost to leaving it. The problem with that is that the Dealmo's wouldn't be here asking for this, they wouldn't have bothered the trouble and expense of being here if that were true because they are expecting to sell their home. And we're in exactly the same situation. We've been there since the home was built – over thirty years. And we – it's more house than we need, and we're going to be looking to sell it, just like the Dealmo's. And so it's – everybody – there's sort of home buying, it's all about three things. And that's location. Because when you buy a home, you're not just buying a house, you're buying the whole area. And every home, the value of all those homes are tied together. So this is why we have these zoning laws is to protect the investment of the home buyer to not have people encroaching on the setbacks, and being on other people's property. Now I do have to say that in all of that time, I was not aware of any disagreement of this kind. I've never had my property formally surveyed. We just - my neighbor and I will talk, and he'll put up a fence, trim some trees, and we say fine, go ahead and do that. But I couldn't actually tie it into a formally surveyed lot. The bottom line is that when – just like the Dealmos – when we go to sell the house, that's kind of a red flag to have a non-conforming property. If a real estate agent brings somebody there with interest in that house, and they say we love this house, but you know what the problem is? We're not really crazy about the neighborhood. That can cost me, if it's ten percent

of the value of the house, that's tens of thousands of dollars. It's not free to have non-conforming property be in the neighborhood. And it's not as if we're out somewhere where we're acres and acres away from the next neighbor's side. These houses are fairly close and without those setbacks, it just isn't the same property. Now the next thing, the new thing was this agreement. And my understanding, the attorney for the Dealmo's represents the Dealmo's. He is acting in their best interest. That deal works for them if everybody honors it. But the problem is our house isn't on the market yet and we're not going to beat them to market. So the problem is the minute that the sold sign goes up, that stuff, whatever, the camper or whatever it is, all goes back there and it's there forever. After that, it's permanent. The variance is granted, the thing it's encroaching on, or the set back, and it's there. And it's very very hard. And so where I'm going with that is that it doesn't help – it's worse for me because at that point, we have no recourse. If somebody comes in and says, you know, just drive by.

Chairman Ure: So if I can interrupt you for a minute, and the board can correct me if I'm wrong, but I think they're going to agree with where I'm headed. Last meeting, we tried to put a little clarity on what we're here for. We're here specifically for dimensional variance on a shed.

Mr. Noel: Right.

Chairman Ure: Not on a camper.

Mr. Noel: Right.

Chairman Ure: Not on his toys.

Mr. Noel: Exactly right.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Chairman Ure: Not on anything else on the property other than the shed.

Mr. Noel: Exactly right. Okay.

Chairman Ure: And the town, right now, doesn't have much control over any of his toys. He can put as many toys as he wants –

Mr. Noel: No, I get that. I get that.

Chairman Ure: Right? And to try to leverage the camper to stop a dimensional variance is not appropriate.

Mr. Noel: Fair enough. That was not my intention. I'm not even suggesting that.

What I'm suggesting is, it is encroaching; it's in violation of the setback.

Chairman Ure: What is?

Mr. Noel: The shed, the barn....

Chairman Ure: The shed.

Mr. Noel: Now a shed, by the way, when I think of a shed, everybody's got a shed.

Eight by twelve, ten by twelve, that's a shed. Take a ride out there, that's not what we're talking about.

Mrs. Ponte: I have a twelve by twenty shed, just to let you know.

Chairman Ure: So the shed was placed on the property before the Ponte's bought it.

Mr. Noel: That's correct. I really feel bad if that was misrepresented.

Chairman Ure: So they were unaware that it was in any violation. The previous owner built it there. And I think it was, if I remember right from last meeting, it was just kind of accepted that it was there.

Member Sposato: Well, to be more accurate, there was testimony that neither party knew where the property line actually was.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Member York: It was assumed it was a straight line from the transformer box that was there.

Chairman Ure: So that's unbeknownst to them. And any of their toys have no relevance to how that shed wound up there. Or them. They were not the ones who created the situation.

Mr. Noel: I get that. I understand that. I'm sympathetic. Part of where I'm going with this is – and this is the final amendment – is that the idea of, we know this is an anchor on selling this property, we know that somebody buying this property will be less impressed by what they see if the camper is there. So it's fundamentally, I think, dishonest to kind of disguise that. Let somebody buy the house, the next day – the whole idea of bargain comes apart because it was predicated on kind of tricking the buyer into seeing a property that wasn't the one that they were going to move in there to.

Chairman Ure: I disagree. That camper can stay there regardless.

Mr. Noel: Well, okay. Absolutely.

Chairman Ure: So no one is tricking anyone. Right now, they're working out an agreement with their neighbor, which is the side that abuts with. So that both of them – they have an agreement. So they can tolerate one another.

Mr. Noel: And it's their right.

Chairman Ure: And, right now, if they want to leave that camper there and park it on their front lawn, they can do it. That camper has no setback requirement. If they want to put that an inch from your line, they can.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Mr. Noel: I get it. I get that. But they do have a building that is in violation of the setback.

Member Sposato: You can object to that and we'll take that into consideration.

Mr. Noel: That is precisely the consideration. It's in violation of zoning, it was not put there deliberately, and there was no intention to put it there. But it turned out when the property got surveyed, it's in violation.

Chairman Ure: And that's why we're here. And that happens a lot. This board sees that. And most neighborhoods, virtually all neighborhoods, are in non-conformance. From the day they're built. So nonconformity is a very common thing. That's why this board is here, why we sit every month. Because of pre-existing nonconforming –

Member Sposato: Your lot's a nonconforming lot.

Mr. Noel: If you say so.

Member Sposato: You said it's on an acre.

Mr. Noel: It's an acre.

Member Sposato: The ordinance now is two hundred twenty five feet of road frontage, and two acres.

Mr. Noel: I understand.

Member Sposato: So you're a nonconforming lot.

Mr. Noel: Well, it actually turns out that whole thing was approved and laid out, it was, as I understand it, the last one acre approved – the last one acre was conforming at the time.

Chairman Ure: It was.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Member Sposato: And just one acre in Hopkinton was conforming at one time. But the minute the town council changes the ordinance, you become nonconforming if you don't fit in the new ordinance. I disagree with it, too, by the way.

Mr. Noel: It is what it is. It is in violation of the setback. The building is there. It clearly impacts the value of my home when I go to sell it. I don't think I can get out between now and April – whatever that day is. We hadn't planned it, but it's obvious it's going to have to happen.

Chairman Ure: So I just – I find that interesting that a shed/barn would depreciate someone's property value when that is a common accessory item that's on the property. It's a structure that's common in all residential areas, whether it's a garage, a shed, or a barn.

Member Sposato: But in all fairness, he has a right to object. Can we finish the hearing? Bring the facts to the table and we'll make a decision.

Member Baruti: He's more concerned about the density. It's not about the shed and the trailer in and of itself. It's a group. And I think he's pressing his objection to that shed because I agree with him. I mean, you remove certain things from the property, and potential buyers come along and say this is what it is. And they don't know what the backdrop is, they don't know about these proceedings. They purchase it and come back. I don't know that's such a big deal, but I understand his concern. Because I think what he's doing is almost speaking on behalf of the other folks who say you just signed an agreement. How are you going to enforce it? That's why I don't think this board should have anything to do with that agreement

nor should we represent in any way shape or form that it's enforceable. I think it'll be up to them if it comes to that.

Member Sposato: I thought we made that perfectly clear.

Member Baruti: I don't know that you did.

Member Sposato: I'm pretty sure that I did.

Member Baruti: I didn't hear that.

Member Sposato: You didn't hear the part where I said that if one breaks it, the other one can sue them? It's all civil?

Member Baruti: I don't know that you could.

Member Sposato: They both had lawyers, so I've got to assume –

Chairman Ure: That's between them.

Member Sposato: It's still not got anything to do with this proceeding.

Member Baruti: I think it does. Because I think what it is is serving as an inducement for that man to pull back his objection to this variance. So I think it is actually very involved.

Member Sposato: I disagree.

Chairman Ure: Well that's something – one item we can add for discussion. Are you – do you have anything to add?

Mr. Noel: That's it. I just wanted to let it be known that the Ponte's weren't the only – that the Dealmo's weren't the only people that an issue that they solved for the Dealmo's, but it does nothing for the rest of the community.

Chairman Ure: Is anybody else here to speak on this hearing? Yes sir. State your – address us. You don't need to go question him.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Mr. Ponte: Thurston Ponte. 25 Keith Drive. I know there's an issue. The shed is with the variance. And the camper, which we made an agreement between us that that's what we're going to do and we signed it. But now someone else pushes for the shed not to be there. I'll spend the money and move it fifteen feet. Then everything stays there. I'm sorry, I don't know where (inaudible). That's what I'm going to say. Nothing's going to go down. I'll move it. If it's permanent.

Chairman Ure: So we – typically we let your neighbor's speak. He can speak on his own behalf. So he says what he said. And you guys have your agreement. We're all aware of that. Now we'll have a discussion and then ultimately we'll make our decision and then hand it down. Depending on how that goes down, then you can make your decision as to what you want to do. Or what you don't need to do. So if it's favorable to you, then you can do what you did with your neighbor and keep your camper away and honor your agreement. That solves that problem. You'll have a ruling from us tonight. Take it as it goes, I guess. I think we have all the evidence we need at this point. We just have to have a discussion to see and wrap our heads around it. If nobody else has anything to say about it, why don't we – do you guys want to go through the findings of fact?

Findings of Fact (all Members had discussion collectively):

They are asking for a 13.1 foot variance.

The Ponte's purchased the property with the shed encroaching on the setback.

The landowner next door (the Dealmo's) did not know that the shed was encroaching.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

The building has been standing for at least 9 years.

The testimony received from Dealmo, he doesn't have an issue with the shed now that the lean-to was taken off of it. The main issue was the motor coach.

The shed or barn is a normal structure on a residential property.

The known issue of the lean-to was removed. .

The Ponte's and Dealmo's came to an agreement of the placement of the motor coach and when/where/how it's placed for the remaining time the Dealmo's are in their property.

No permits were pulled for the shed.

The Rhode Island Realtors sales states there were no easements or encroachments or building special use permits that were applied for during the purchase the Ponte's made.

It's not common to have a survey done at the time of a sale.

There are site constraints, utility lines, well, septic, fence, that limit the moving of the shed.

The deed restrictions on the whole development expired in 2012.

A MOTION WAS MADE BY RONNIE SPOSATO AND SECONDED BY JOE YORK TO ACCEPT THESE AS FINDINGS OF FACTS. ALL WERE IN FAVOR.

SO VOTED.

JOSEPH YORK MADE A MOTION THAT IN GRANTING A VARIANCE, THE ZONING BOARD SHALL REQUIRE THAT EVIDENCE SATISFYING THE FOLLOWING STANDARDS BE ENTERED INTO THE RECORD OF THE

PROCEEDINGS. THE FIRST IS THAT THE HARDSHIP FROM WHICH THE APPLICANT SEEKS RELIEF IS DUE TO THE UNIQUE CHARACTERISTICS OF THE SUBJECT LAND OR STRUCTURES AND NOT TO THE GENERAL CHARACTERISTICS OF THE SURROUNDING AREA AND IS NOT DUE TO A PHYSICAL OR ECONOMIC DISABILITY OF THE APPLICANT. RONNIE SPOSATO SECONDED THE MOTION. ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION THAT THE HARDSHIP IS NOT AS A RESULT OF ANY PRIOR ACTION OF THE APPLICANT AS THIS STRUCTURE PRE-DATES THEIR OWNERSHIP OF SAID LOT AND DOES NOT RESULT PRIMARILY FROM THE DESIRE OF THE APPLICANT TO REALIZE GREATER FINANCIAL GAIN. RONNIE SPOSATO SECONDED THE MOTION. ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION THAT GRANTING OF THE REQUESTED VARIANCE WILL NOT ALTER THE GENERAL CHARACTERISTICS OF THE SURROUNDING AREA OR IMPAIR THE INTENT OR PURPOSE OF THE ZONING ORDINANCE OR THE COMPREHENSIVE PLAN UPON WHICH THIS ORDINANCE IS BASED. AS THE BARN DESCRIBED AND SHOWN ON THE SITE PLAN IS NOT AN UNCOMMON BUILDING IN THIS AREA.

Member Sposato: Elaborate and say it's been there for ten years with no other complaints.

Member Geary: And it wasn't built on a weekend. It's been there for awhile. These people fell into it.

SECONDED BY MIKE GEARY. ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION THAT THE RELIEF TO BE GRANTED IS THE LEAST RELIEF NECESSARY AS THERE ARE NO OTHER SIDE LINE SETBACK ISSUES WITH THIS PARTICULAR LOT. THE MOTION WAS SECONDED BY RONNIE SPOSATO. ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION THAT THE ZONING BOARD SHALL, IN ADDITION TO THE ABOVE STANDARDS REQUIRED, AS EVIDENCE BE ENTERED INTO THE RECORD OF PROCEEDINGS SHOWING THAT IN GRANTING A DIMENSIONAL VARIANCE THAT THE HARDSHIP THAT WILL BE SUFFERED BY THE OWNER OF THE SUBJECT PROPERTY IF THE DIMENSIONAL VARIANCE IS NOT GRANTED SHALL AMOUNT TO MORE THAN A MERE INCONVENIENCE. THE FACT THAT THE USE MAY BE MORE PROFITABLE OR THAT THE STRUCTURE MAY BE MORE VALUABLE AFTER THE RELIEF OF VARIANCE SHALL NOT BE GROUNDS FOR RELIEF. THE MOTION WAS SECONDED BY RONNIE SPOSATO.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

Member Baruti: The applicant did mention the fact that he could move it fifteen feet. I think he said it more out of emotion than it was said in reality. It hurts the testimony to the contrary that it would be difficult, it would be quite an expense to do so. I want at least a discussion to reflect the fact that maybe that wasn't an entirely accurate statement. And I think that proceeding forward, we're going to proceed forward based on that it would be a hardship to move it.

Member Sposato: I definitely concur with Danny. That wouldn't be a cheap thing to do.

Member Geary: No. It's up against the fence, wasn't it? So you wouldn't be able to-

Member York: It's a lot of work.

Chairman Ure: He's got the fence in the way.

Member Geary: It's on a slab.

Chairman Ure: Yeah, it's on a slab. It's a bit of an undertaking. It's not like it's a pole barn where you can detach it and you can kind of slide it over.

Member York: I agree that his statement was more of an emotional statement.

Member Baruti: I don't want to speak for you.

Mr. Ponte: No, you're right. It was emotional. It can't be done; yes. We're just overly aggravated about what we owe into this whole problem.

Member Baruti: I suggest we take a vote.

ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION THAT THE ZONING BOARD, BASED ON THE PREVIOUS FINDINGS OF FACT, WE APPROVE THIS 13.1 FOOT DIMENSIONAL VARIANCE. THE MOTION WAS SECONDED BY RONNIE SPOSATO. ALL WERE IN FAVOR.

SO VOTED

Sitting as Board for Petition IV: Ure, York, Harrington, Geary, Sposato

Petition IV – Hearing, continued from February 21, 2019.

A Petition for a Special Use permit filed by Edward & Julieta Sherman, with mailing address of 163 Canal St, Westerly RI 02891, on behalf of themselves for property owned and located at 165 Ashaway Rd, Bradford, RI 02808 identified as AP 23, Lot 4 an RFR-80 Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

A stenographer was present for Petition IV. A copy of the transcripts will be included with the minutes.

RONNIE SPOSATO MADE A MOTION THAT THE ZONING BOARD PROCEEDS AS THE AGENDA STATES AND NOT ALLOW ATTORNEY COMOLLI'S CONTINUANCE. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

DANIEL HARRINGTON MADE A MOTION TO CLOSE THE PUBLIC HEARING. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

Findings of Fact for the Shed:

The shed is 8.5”x12.5” on the western property line. It was moved to the center of the property in compliance of the dimensional setbacks.

A shed is a common structure on any residential or business property.

The shed has been on the property, and it was moved to be more compliant with zoning ordinance.

RONNIE SPOSATO MADE A MOTION THAT THESE FINDINGS OF FACTS BE ENTERED INTO THE RECORD. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

Findings of Fact for the Structure of the Mulch Bins:

Two blocks tall, which is four foot, is the structure.

Each bin is 24’ by 20’ and there are two of them, as drawn.

The contents of the mulch bin shall remain within the dimensions of the mulch bin.

The orientation of the proposed bins shall be the opening of the bins facing the center of the dog leg.

The opening of the bins will be turned 45 degrees and faced northwest and shall still remain within the setback limits.

The southwest bottom down towards the greenhouse.

The applicant could receive 100 yards of mulch at a time, which means less trucks coming into the property and that's better for neighbors.

Findings of Fact for the Use of the Mulch Bins:

It wasn't going to be wholesale use, only residential sales.

The sale of mulch is a customary activity that goes on in a garden center.

The previous owner was selling bags of mulch.

This is a change of how it's sold, it's piled mulch.

It will stay in a neat and orderly pile in the container, which is better for the neighbors.

RONNIE SPOSATO MADE A MOTION FOR A FIVE MINUTE RECESS. THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN FAVOR.

SO MOVED

Brief Recess

RONNIE SPOSATO MADE A MOTION TO RECONVENE THE ZONING BOARD OF REVIEW MEETING. THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN FAVOR.

SO VOTED

Findings of Fact on the Mulch Bins (Cont.):

The applicant entered into a consent order dated 09/28/2018 with the town through the Rhode Island superior court.

The applicant is out of compliance with the consent order.

Also, that it would be detrimental to grant relief sought until compliance with the consent order has been received.

The permits are contingent upon compliance with the consent order.

The consent order was dated 09/28/2018 and will be incorporated and merged into this board's decision.

JOSEPH YORK MOTIONED TO ACCEPT THOSE AS FINDINGS OF FACT.
THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN
FAVOR.

SO VOTED.

JOSEPH YORK MOTIONED THAT THE ZONING BOARD, BASED ON THE
FINDINGS OF FACT, FINDS THAT THE USE WILL BE COMPATIBLE WITH
THE NEIGHBORING USES AND WILL NOT ADVERSELY AFFECT THE
SURROUNDING NEIGHBORS' USE AND ENJOYMENT OF THEIR
PROPERTY. THE MOTION WAS SECONDED BY RONNIE SPOSATO.

Discussion by the board regarding the previous findings of fact.

JOSEPH YORK WITHDREW HIS MOTION

RONNIE SPOSATO MADE A MOTION THAT THE ZONING BOARD OF REVIEW DISPENSE ALL FINDINGS OF FACT AND MAKE NO MOVEMENT ON THE SPECIAL USE PERMIT. THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN FAVOR.

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT MULCH OF ANY TYPE IS NOT ALLOWED ON THE PROPERTY UNTIL WHICH TIME HE'S WITHIN COMPLIANCE WITH THE CONSENT ORDER AGREEMENT. THE MOTION WAS SECONDED BY DANIEL HARRINGTON. ALL WERE IN FAVOR.

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT BEFORE ALLOWING MULCH ON THE PROPERTY AND BEFORE THE SPECIAL USE PERMIT GOES FORWARD, A SITE VISIT BY THE BUILDING INSPECTOR DAVID RODIO MUST BE COMPLETED TO PROVE THE CONSENT ORDER HAS BEEN ADHERED TO. DAVID RODIO WILL THEN REPORT THE FINDINGS TO CHAIRMAN URE. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT, AS STATED IN ITEM FOUR OF THE CONSENT AGREEMENT, FROM THE TIME OF THE AGREEMENT,

THE DEFENDANT SHOULD HAVE PERMANENTLY REMOVED ALL TRAILERS AND EQUIPMENT FROM THE PROPERTY. THE ZONING BOARD SHALL NOT PERMIT USE OF ANY EQUIPMENT ON THE PROPERTY UNTIL THIS AGREEMENT IS IN COMPLIANCE AND ANY EQUIPMENT USED IN REMEDIATION WORK WILL BE ALLOWED AS STATED IN THE EIGHTH ITEM OF THE AGREEMENT WHERE HE SHALL CONTACT THE TOWN MANAGER, WHO WILL THEN NOTIFY THE BUILDING INSPECTOR, DAVID RODIO, AND WILL ALSO NOTIFY THE ZONING BOARD OF REVIEW CHAIRMAN JONATHAN URE. THE MOTION WAS SECONDED BY MICHAEL GEARY.

IN FAVOR: YORK, URE, GEARY, SPOSATO

OPPOSED: HARRINGTON

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT ITEM FIVE OF THE CONSENT ORDER IS REQUIRED TO COME IN COMPLIANCE WITH THE PREVIOUS ITEMS OF THE CONSENT ORDER BEFORE DISCUSSION OF THE ALLOWANCE OF MULCH IS RESUMED. THE MOTION WAS SECONDED BY JOE YORK.

IN FAVOR: YORK, URE, GEARY, SPOSATO

OPPOSED: HARRINGTON

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT IF THE APPLICANT COMES INTO COMPLIANCE WITH THE CONSENT ORDER (#7), THE BUILDING INSPECTOR, DAVID RODIO MAY INSPECT THE PROPERTY AND AUTHORIZE COMPLIANCE. IF MR. RODIO AGREES THAT COMPLIANCE WITH THE CONSENT ORDER HAS BEEN SATISFIED, THE APPLICANT CAN CONTINUE SELLING BAGGED MULCH, AS WAS ALLOWED IN 2014. THE MOTION WAS SECONDED BY DANIEL HARRINGTON. ALL WERE IN FAVOR.

SO VOTED

DANIEL HARRINGTON MADE A MOTION THAT ITEM EIGHT OF THE CONSENT AGREEMENT HAS BEEN SATISFIED. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

RONNIE SPOSATO MADE A MOTION THAT THE PETITION FOR THE SPECIAL USE PERMIT SHALL BE CONTINUED UNTIL THE NEXT ZONING BOARD OF REVIEW MEETING. THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN FAVOR.

SO VOTED

JOSEPH YORK MADE A MOTION TO APPROVE THE ZONING BOARD OF REVIEW MEETING MINUTES FROM THE FEBRUARY 21, 2019 MEETING.

ZONING BOARD OF REVIEW MEETING MINUTES – March 21, 2019

THE MOTION WAS SECONDED BY MICHAEL GEARY. ALL WERE IN FAVOR.

SO VOTED

DANIEL HARRINGTON MADE A MOTION TO MOVE PETITION II FROM TONIGHT'S AGENDA TO NEXT MONTH'S MEETING. THE MOTION WAS SECONDED BY RONNIE SPOSATO. ALL WERE IN FAVOR.

SO VOTED

There was discussion amongst the board regarding the appropriate steps to ask for a continuance from the Zoning Board of Review and how to make attorneys and applicants aware of the requirements.

RONNIE SPOSATO MADE A MOTION TO ADJOURN THE MEETING AT 9:46 P.M. THE MOTION WAS SECONDED BY JOE YORK. ALL WERE IN FAVOR.

SO VOTED

Respectfully Submitted,

Tiana Zartman

Alternate Zoning Board Clerk

Next meeting: April 18, 2019; 7:00 P.M.