

ZONING BOARD OF REVIEW MEETING MINUTES – September 17, 2020

State of Rhode Island

County of Washington

In Hopkinton on the seventeenth (17th) day of September 2020 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, Daniel Harrington, Michael Geary, Joe York, Alternate Daniel Baruti

Zoning Board Clerk: Elizabeth Monty

Building Official: Anthony Santilli

Zoning Board Solicitor: Renee Bevilacqua, Esq., Solicitor, of Assalone & Associates, LLC

Absent: Ronnie Sposato, Zoning Board Vice Chairman, Phil Scalise, Alternate Zoning Board Member

7:00 P.M. Call to Order – Introduction - Moment of silent meditation and salute to the Flag.

Members sitting as Board: Ure, Harrington, York, Geary, Baruti

Chairman Ure welcomes everyone to the meeting.

Petition I – Determine Completeness, consider waivers.

A Petition for a Special Use Permit filed by Shannon Paquin, with mailing address of 43 Woody Hill Road, Hope Valley, RI 02832, for property owned by Shannon Paquin and Daniel Manning located at 43 Woody Hill Road, Hope Valley, RI 02832, identified as AP 17, Lot 23B 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.

ZONING BOARD OF REVIEW MEETING MINUTES – September 17, 2020

Applicant or representative present.
Filing fees paid and notice posted.
Discussion.
Decision.

Chairman Ure reads the Petition. He states the Board will go through a checklist to see if the Applicant has all the paper work she needs so that they can have a hearing next month on October 15th, 2020. He stated that they would see how she makes out, and if she has everything, they will be ready to roll. He said Joe would be reading through the checklist and the Board would be doing a lot of taking. He advised the applicant to reach out if she has any questions.

Member York reads through the checklist:

Checklist item A: Three (3) copies of a site plan prepared by, and signed and stamped by a professional engineer or professional land surveyor at a scale of no less than one (1) inch = forty (40) feet clearly showing;

Chairman Ure: There is a note here, please waiver survey. Chairman Ure noted that this item does not need a waiver as they have a better site plan than required at 1 inch per 30 feet in scale.

MEMBER HARRINGTON MADE A MOTION THAT THE BOARD ACCEPT THE SITE PLAN AS PRESENTED, WHICH WAS SECONDED BY MEMBER YORK. THERE WAS NO DISCUSSION. ALL WERE IN FAVOR.

Chairman Ure: Now let's get into the details:

Member York continued:

1. Name and address of property owners
2. Date , north arrow, graphic scale, lot dimensions and area
3. Plat & lot, zoning districts and setbacks

ZONING BOARD OF REVIEW MEETING MINUTES – September 17, 2020

4. Existing and proposed structures and their relationship and distances from lot boundaries
5. Existing and proposed parking areas and walkways
6. Existing and proposed landscaping, as it relates to the request
7. Existing street, 9-1-1 address, wells and septic system
8. List of names and addresses of all property owners within 200 feet of subject property
9. Any peculiar site conditions or features

The Board goes through each item as follows & it was noted the site map was presented and had a scale of one (1) inch to 30 (30) feet, which was superior to the minimum required scale.

1. Yes
2. Yes
3. Yes
4. Yes. There are no proposed structures.
5. Yes. There are no proposed additional parking areas.
6. Yes
7. Yes
8. Yes; the Board reads through all names and lot numbers (Map 24: lots: 36, 38, 39, 65, 65B, 65A, touch of 64, 35, 178A, 28)
9. Yes;

MEMBER YORK MADE A MOTION THAT CHECKLIST ITEM A IS COMPLETE, SECONDED BY MEMBER HARRINGTON. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Member York goes on to Checklist Item B:

Three copies of a separate map including all property owners within 200 feet of the subject property and/or all those property owners and entities which require notice under Section 45-24-53 RIGL also depicting any zoning district boundary and uses of all neighboring properties.

Member Geary volunteered to read through the names:

Map 17, Lots: 19, 20, 23B(Subject), 23H, 23C, 23K, 23, 23G

MEMBER YORK MADE A MOTION THAT CHECKLIST ITEM B IS COMPLETE; SECONDED BY MEMBER GEARY. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Member York went on to Checklist Item C:

A soil erosion and stormwater control plan.

Member Harrington stated that the Applicant was seeking a waiver for this item.

MEMBER YORK MADE A MOTION THAT THE BOARD WAIVE CHECKLIST ITEM C; SECONDED BY MEMBER HARRINGTON. NO DISCUSSION.

ALL WERE IN FAVOR.

SO VOTED

Member York went on to Checklist Item D:

ZONING BOARD OF REVIEW MEETING MINUTES – September 17, 2020

A letter from a biologist indicating that there are no freshwater wetlands on or in close proximity to the site. Waiver is requested.

Member Harrington noted that there are no wetlands there.

MEMBER HARRINGTON MADE A MOTION THAT THE BOARD ACCEPT THE WAIVER FOR CHECKLIST ITEM D. THIS WAS SECONDED BY MEMBER GEARY. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Member York continued to Checklist Item E:

Location of existing septic system. (York noted: “We have that on the plan.”)

MR. YORK MADE A MOTION TO WAIVE CHECKLIST ITEM E; SECONDED BY MR. HARRINGTON. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Member York moved on to Checklist Item F:

Traffic study addressing the potential impacts of the proposed activity. Member Harrington noted the Applicant has asked for a waiver.

MEMBER YORK MADE A MOTION TO ACCEPT THE WAIVER ON THE TRAFFIC STUDY FOR CHECKLIST ITEM F; THERE WAS DISCUSSION: From the application the Board discussed the nature of the application being a doggy training for up to 3 dogs per day and some boarding; Member Harrington also noted that traffic can only come in one direction now since the bridge was closed. They didn’t believe that there should be a traffic issue. THE MOTION WAS SECONDED BY MEMBER HARRINGTON. ALL WERE IN FAVOR.

SO VOTED

Member York moved on to Checklist Item G:

ZONING BOARD OF REVIEW MEETING MINUTES – September 17, 2020

The Applicant is also requesting a waiver for checklist Item G: A separate site plan, indicate existing and proposed topography.

MEMBER HARRINGTON MADE A MOTION TO ACCEPT THE WAIVER FOR CHECKLIST ITEM G; SECONDED BY MEMBER GEARY. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Member York moved on to Checklist Item H: This Item is the last one on the list and it is noted that there is an existing well. The Board discussed the well versus the presence of dogs changing the quality of the well. It was discussed that this situation is similar to homes who have 2 or three dogs.

MEMBER YORK MADE A MOTION TO GRANT A WAIVER FOR CHECKLIST ITEM H; SECONDED BY MEMBER GEARY. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

MEMBER HARRINGTON MADE A MOTION TO ACCEPT THE CHECKLIST AS COMPLETE; SECONDED BY MEMBER YORK AND GEARY (SIMULTANEOUSLY). NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

Chairman Ure explained to the Applicant that everything looks good and that there would be a hearing next month on October 15th at 7:00 pm and the Applicant would now need to notify the neighbors/abutters in the 200-foot radius via certified letter, using the USPS green cards before the hearing. If you (Applicant) have any questions, you (Applicant) can reach out to the Building Officials.

Chairman Ure stated that one of the Members has a question they are going to ask you at the hearing....just to prepare you (Applicant) for that...

Member Baruti asked one final question: If I sit for the hearing, obviously you went a great distance in speaking to the noise issue; obviously I am going to presume that the neighbors would be concerned about those type of things...I'd be particularly interested to see how you plan on dealing the waste management. You don't have to answer it now, but just be prepared that that would be a question I would ask if I were to sit on the Board. I am only an Alternate, so I may not be here....ok? Ok.

Chairman Ure stated that Mr. Baruti was just trying to be courteous so that if the question is asked you can be prepared and not hit with a curve ball. Ok – so reach out to the Building official if you need help with the green card. They have to come back before the hearing... See you next month.

OK – let's move on to the Big Show....

Petition II – Hearing.

A Petition for a Special Use Permit filed by Michael Lachapelle, with mailing address of PO Box 1403, Westerly, RI 02891, for property owned by Kenneth Adams located at 13 Oak St, Ashaway, RI 02804 identified as AP 24, Lot 37 an R-1 Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant or representative present.
Filing fees paid and notice posted.

Chairman Ure opened the Hearing, asking the Applicant to come to the Podium and identify him/themselves for the record.

(Public hearing begins, witness is sworn in)

Applicant (ML): Hi. I am Mike Lachapelle. I reside at 13 Oak St., Ashaway. Ken Adams is the Owner and I will be representing him.

JU: So you are proposing a new garage?

ML: Yes with an additional second story

JU: OK – so I'm trying to remember from last time....you're using the existing footprint.

ML: Yes.

JU: Redoing the garage and foundation?

ML: Yes.

JU: And you're going to go up a story?

ML: I am.

JU: The second story is going to be used for...?

ML: The whole is going to be used for storage. We don't have any closets in that whole house and I'm still redoing the foundation of the house and it's not water tight – so I can't really store anything in the basement either.

JU: This is a stand-alone garage? It's not attached?

ML: Detached.

JU: It's a detached garage.

ML: Yes.

JU: (To the Board) Do you Guys have any questions for him? Seems pretty straightforward.

DH: Are there any utilities other than electricity that you are going to use for the garage?

ML: Mini-split for storage; if I need to store food in there or anything.

DH: So no water?

ML: No.

DH: So, it's not intended to be living space?

ML: No. No living space at all.

DH: I think the footprint that is being proposed is bigger than what is there?

ML: There's a garage there with a big shed attached to the back...looks like they built it at the same time – just one piece doesn't have a foundation

JU: Just to clarify – for the foundation plan – it says new foundation, then there is like an existing piece....

ML: Yea. That has no foundation – built on grade. So the existing is just built on the ground. The other portion is just built on the ground.

JU: So this part that says new – this is going to replace the existing?

ML: That whole thing will be new foundation; I should have clarified on that.

JU: OK, but the overall dimensions will be the same.

ML: Yes.

JU: Not extending it beyond; not increasing the footprint?

ML: No. Just going taller.

JU: It's like one (1) foot nine (9) on one side....

DH: How are you going to dig that?

ML: I did talk to the neighbor about setting up a construction fence. He does have children. I am a contractor. Safety is our first concern. So...when I am digging, I will be setting up a construction fence, and probably about five feet using his property....

DH: Is he here tonight? As long as he is on board? We want to avoid other problems.

JU: He is notified. He is not present. It looks like the neighbor on that side is Cassius Spears.

ML: Yea.

JU: He's not present. We don't see him on the online....

DH: Is that sold or is that pending?

ML: Ummm. I've seen Cassius over there, unloading stuff. I'm not sure what's going on exactly. I know they were trying to sell. it.

DH: I just don't want to see a problem as you're in the middle of digging, there is a problem....

TS: It's a civil issue; Basically you should go to the neighbor and ask if they mind you doing this work, etc...I am going to have to evaluate everything: the trim, the siding, etc...

ML: That's fine.

DB: I just don't know how you can build this without impacting the neighbor. I just don't understand...equipment-wise....I'm not really sure...how that will happen.

ML: I think in the construction section of the build – yes – they're on 1.2 acres, and I obviously have that little sliver...so if they agree to give me 5 more feet for the duration of a month building period and safety precautions are met, I think it's a win-win and I'm being pretty neighborly. As impacting of view, I told them I'm not putting windows on that right side.

DB: I'm not concerned about that – My question to you is if the neighbor doesn't agree to allow you to set foot on their property, can you still build the building?

ML: I don't see where I'd have to be on their property with the equipment. I am able to get a mini-excavator up and around the pool. Building material can stay in the driveway; or if I have to give them a schedule of values – or anyone a schedule of values – for the site for what we plan on doing on the site – that's fine too – so they have a time line for those as well and all those can be met.

DB: Is that possible Tony?

TS: In my opinion, it happens a lot usually you go to the neighbor and ask them permission; and you can offer to re-landscape when you finish – you can reseed their side....It's common practice.

JU: It makes it more convenient if you can go over there and Cassius is in agreement and will allow you to do that. That's a discussion you'll have to have. It's a 12-foot width to that. I think a mini excavator can probably haul most of that out of there without even going on his property. But it's so close – you have to wonder about things undermining....

DH and DB: discussed the possibility of going over the side line with drawing brush out and placing footings, etc... and that doesn't include area to work....

JU: Like Tony said it's more of a civil issue. He's replacing the wood for the structure with the same foot print. I don't necessarily think that is something that the Board would deny.

DH: Mike, I have a question for you – is there any reason you can't cheat this over a couple of feet? The property – it looks like there is gravel....

ML: I can, but this is my first time going for a variance...I was told don't ask for any more than what you have...so if I have to go left, I'd be more than happy to, if I could go back I'd love that, if I could go forward, I'd love that....but I wasn't

sure... I didn't want to do something and then ask for forgiveness later. So I just stayed within the boundaries.

JU: That would put him into a variance. He's not in for variance. If he got off of that footprint, even though he's making that less non-conforming, he'd still need to get a variance. It's going in the opposite direction of where we normally work – getting closer to... it's a better circumstance....

DH: Right now, I'm not sure that property hasn't been conveyed, not sure it is even owned by Spears.

JU: Oh – not sure he owns it....?

DH: Who's been notified?

JU: Whoever is on record. That's all we can do.

DH: I know that's all we can do....Well, in a couple months I don't want to see it come back on us, as he starts digging out there....maybe an agreement or something?

DB: I agree with Dan; it would be ideal if that agreement was in place before the work begins....

ML: Can I make a comment?

DB: If it was in writing and it were documented; I think that would answer that level of uncertainty. Because then it would be up to Mr. Spears to disclose that information to a Buyer.

MG: I agree with Dan and I agree with Dan; get something in writing....this person is going to work on his property, etc.

Board deliberates.

JU: So is the consensus from the Board that if he can get permission from the existing Owner on that side to construct this without any reservations or even to use some of the property to build it then the Board would be in agreement? It doesn't seem like anyone has any apprehension to what he is doing other than that problem....Or if he has to come back, the Board would be more inclined to have him get a variance and kick that thing closer to the pool. It's still pretty tight to the pool. If it was my property, I'd still want to be able to get vehicles between the garage and the pool. I don't know that dimension between there, but it's not very wide.

DH: about 12 feet

ML: You have on the back end it's about two feet on each side.....you don't have a lot. So I would like to get some piece of equipment back there if I had to.

JU: So that's the issue I see if he does kick it closer to the pool.

ML: Septic and leech fields are on the other side. So I can't really run anything heavy on the other side. Especially if I had to make a repair.

JU: It's a bowling alley lot. It's kind of typical of what we see and it's very limited on both sides of that property. On the other side it looks like there is a little bump out addition, there is not much room on that side to get a vehicle by.

ML: Nine feet to the property line there....

Board deliberates....

JU: Use is the same exact use; He is using the same footprint. He's just going higher. He is still within the height requirements. I don't have any reservations on my part in granting a Special Use permit....I understand where you Guys are coming from. But I do think the neighbor will have to bring up with him if he doesn't want him on the property; that's a civil issue, that will bring it to a halt.

Solicitor: May I ask if you're questioning the certification? If you're questioning the notice? If you truly believe that that is not the record Owner?

DH: No. I'm not questioning that. I just would have preferred to have a letter or the Owner here from that side.

Solicitor: If he was properly noticed and he fails to complain or show or object then the requirements are satisfied.

While the Board deliberated, Clerk Monty went to look up the Owner.

JU: If he sent it and it was kicked back, he has done his due diligence.

The Group discussed how the process would go forward if the ownership has changed and reiterated the details of the application.

Clerk Monty returned with proof of Ownership.

DB: You're right. August 28th it changed hands. When did you send notice?

Solicitor: Could we amend the application, giving more time to give notice?

ML: I am looking for the date right now – 9/4/2020.

JU: You sent them out on 9/4?

DB: The problem is for me: I will speak only for myself. I don't agree with the Chairman in the sense that if the property did change hands, as Dan caught, that means we don't have sufficient notice to the abutters. It would call into question our approval of this. I think we are better off postponing plans for a month and just making sure that we resolve this particular aspect.

ML: I think I agree too based on we're both going to live there in, hopefully, harmony. So it needs to be an equal decision.

DB: Clearly, it's not our business, but you have maintenance issues to tackle and stuff like that and need to wrap them up.

JU: In light of the dates of when you sent them it's just the cross-over of that sale and we have more information on the tax card and the date it was sent back. It's a weird cross-over because it got mailed to Cassius, but he doesn't own it at that point. He doesn't necessarily have the new owner's address, because it's all crossed in the wash. Now I'm more in agreement with you Guys, now that we have digested all this. Before we get to that point, do you Guys have any other questions on a different topic other than him getting notice and approval from that neighbor?

DB: I don't feel comfortable going forward without that neighbor getting notice. And if that neighbor wants to be present for this discussion, I think that they should be present for the balance of the discussion. I think that to finish this thing out and to limit this only to notice of the neighbor to offer their input, I think they should have the benefit of some of the questions that are asked.

JU: Good Point. Does anyone want to make a motion?

MEMBER HARRINGTON MADE A MOTION TO CONTINUE THE
OPEN HEARING TO THE NEXT SCHEDULED MEETING SO THAT THE
NEXT-DOOR NEIGHBOR CAN HAVE PROPER NOTIFICATION, NOW
THAT THE OWNER OF THE PROPERTY HAS CHANGED HANDS.

MICHAEL GEARY SECONDED THE MOTION.

DISCUSSION:

JU: Just to add to what Dan said, getting the proper notification out, but if you can also get a notarized letter of a signed affidavit from that neighbor saying that they are fine with this, that would help us a ton.

ML: Sure.

JU: Then that way they don't have to come if they don't have any issues with it.

Board discusses and all agreed.

Solicitor: Is the Application on file in Town Hall?

JU: This is. Yes.

Solicitor: Then for that new person, you could include that the application is on file in the Town Hall. You may come in and view the maps and everything that's been talked about.

ML: I think I am just going to go introduce myself.

JU: There you go. That's the best way. Bring it all with you and save them the trip.

ML: Yea.

DH: And you could tell them how you will improve that side of the property, etc.

JU: How's the fence look on that side?

ML: Um... 60 years old....I wanted to replace that. It's a good discussion point now with the new owner.

JU: That's a nice token to the project...make it nicer. OK – well we had a motion on the floor. Any more discussion?

NO MORE DISCUSSION. ALL WERE IN FAVOR.

SO VOTED

JU: OK, so we are looking at the 15th of October, 2020.

ML: The 15th?

JU: Yep. October 15th, yep.

Solicitor: Public hearing means open here in Court.

JU: Yes. The Hearing is still open. We're continuing the hearing until next month.

ML: OK. Good to go?

JU: Yes. You Guys are all set. Have a good month. See you next month.

MEMBER YORK MADE A MOTION TO ACCEPT THE ZONING BOARD OF REVIEW MEETING MINUTES FROM AUGUST 15, 2020, WHICH WAS SECONDED BY MEMBER GEARY. ALL WERE IN FAVOR. THERE WAS NO DISCUSSION.

SO VOTED

Chairman Ure inquired if there were any items to be ratified? There were none per the Solicitor.

MEMBER YORK MADE A MOTION TO ADJOURN AT 7:40 P.M. WHICH WAS SECONDED BY MEMBER GEARY. ALL WERE IN FAVOR. NO DISCUSSION.

SO VOTED

Respectfully Submitted,

Elizabeth Monty

Zoning Board Clerk

Next scheduled meeting: October 15, 2020