

ZONING BOARD OF REVIEW MEETING MINUTES – January 21, 2021

State of Rhode Island

County of Washington

In Hopkinton on the twenty-first day of January, 2021 A.D. the said meeting was called to order by Zoning Board of Review Chairman Jonathan Ure at 6:07 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, Dan Harrington, Daniel Baruti; Ronnie

Sposato Present for Petition II only.

Zoning Board Clerk: Tiana Zartman

Zoning Official: Anthony Santilli

Absent: Member Ronnie Sposato and Alternate Member Phil Scalise; Solicitor Per Vaage of Gidley, Sarli & Marusak, LLP, Town Council Liaison Michael Geary

Sitting as Board for Petition I: Ure, York, Baruti, Harrington

Petition I – Determine completeness of application/consider waivers.

A Petition for a Special Use Permit filed by The Hope Valley Grange, with mailing address of 1116 Main Street, Hope Valley, RI 02832 for property owned and located at 1116 Main Street, Hope Valley, RI 02832 identified as AP 28 Lot 145 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.

Applicant is present.

All fees have been paid.

All notices have been posted.

Chairman Ure explains to the applicant the procedure of checking the application to make sure all required documentation has been submitted. He explains if any items

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are missing, they can be brought to the next Zoning Board meeting on February 18, 2021.

CHECKLIST ITEM A:

Three copies of a site prepared by, and signed and stamped by, a professional engineer or professional land surveyor at a scale of no less than one inch = forty feet clearly showing:

- Name & address of property owner(s)
- Date, north arrow, graphic scale, lot dimensions and area
- Plat & lot, zoning district(s) and setbacks
- Existing and proposed structures, and their relationship and distances from lot boundary lines
- Existing and proposed parking areas and walkways
- Existing and proposed landscaping, as it relates to the request
- Existing streets, 911 address, wells, septic system
- List of names and addresses of all property owners within 200 feet of subject property
- Any peculiar site conditions or features

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK TO DEEM CHECKLIST ITEM A COMPLETE. ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM B: Three copies of a separate map indicating 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 R.I.G.L., also depicting any zoning district boundary and uses of all neighboring properties.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT CHECKLIST ITEM B WAS COMPLETE. ALL WERE IN FAVOR.
SO MOVED

CHECKLIST ITEM C: A soil erosion and stormwater control plan with supporting calculations based standards approved by the USDA Soil Conservation Service and in conformity with the R.I. Erosion and Sediment Control Handbook.

Chairman Ure explained there was a waiver request for Checklist Item C.

A MOTION WAS MADE BY MEMBER HARRINGTON TO GRANT THE WAIVER REQUEST FOR CHECKLIST ITEM C AND SECONDED BY MEMBER YORK. ALL WERE IN FAVOR.
SO MOVED

CHECKLIST ITEM D: A letter from a biologist indicating that there are no fresh-water wetlands on or in proximity to the site such that the application is regulated by the R.I. Freshwater Wetlands Act. In those instances where the application is regulated by the R.I. Freshwater Wetlands Act, a physical alteration permit issued by the R.I. Department of the Environmental Management, and where applicable, the U.S. Army Corp of Engineers, shall be required.

Member Harrington asks if the applicants have asked for a waiver on the checklist item. Member York says that they have not. Member Harrington asks if there is a letter included in the application. Chairman Ure asks the applicant if they included a letter from a biologist in their packet. The applicant thought they asked for a waiver. Chairman Ure explains that there's nothing in the application, but they can amend the application. The Zoning Board clerk has the applicant amend the original application to include asking for a waiver for Checklist Item D.

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A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO GRANT THE WAIVER REQUEST FOR CHECKLIST ITEM D. ALL WERE IN FAVOR.
SO MOVED

CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by R.I.D.E.M. – Division of Land Resources for an ISDS (individual sewage disposal system) or change of use permit for the proposed activity, attach a copy to the application.

Member Harrington states they have a new septic system provided in the application which states that it provides 100 seats, 5 gallons per seat per day. Member Harrington asks Anthony Santilli if he's okay with that. Mr. Santilli responds he's fine with those figures.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK TO ACCEPT THE SEPTIC PLANS AS SUBMITTED FOR CHECKLIST ITEM E. ALL WERE IN FAVOR.
SO MOVED

CHECKLIST ITEM F: Traffic study addressing the potential impacts of the proposed activity.

Member York explains that a waiver has been requested for Checklist Item F. Chairman Ure explains he doesn't think traffic will cause an issue because the athletic fields next door are used more substantially. For the athletic fields, there are three baseball fields and a playground. Chairman Ure believes that the recreational area brings in more traffic and activity than the preschool will.

Member Harrington asks the application where the traffic will enter. The applicant responds and explains that the traffic will enter on the right and exit out of the

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ballfield. The applicant says there is only one way in and one way out. Chairman Ure clarifies it's a circular type of traffic set up and back-ins are not expected. Chairman Ure goes on to say he thinks the current set up is much better than what the grange has had in the past. Member Harrington says he would have an issue if the driveway wasn't one-way.

Chairman Ure asks if there are any more comments. Member Baruti states he agrees for a slightly different reason. Member Baruti explains his assumption is the proposed use will not increase the number of people in the building. Member Baruti says the proposed use of the building will occur at different times than the current uses and the number of people in the building at one time will not increase. Member Baruti goes on to say he doesn't see a need for a traffic study. Chairman Ure explains that the Grange's maximum capacity exceeds the use that they're proposing. Chairman Ure says in the past, they've held events and the building and area can handle a lot more than the preschool will bring in.

Member Harrington asks the applicant how many kids will the preschool have per day. The applicant responds and says the maximum number of children will be twenty per day. Member Baruti asks what the capacity is of the building. The applicant responds and states the building is allowed 125 occupants upstairs and 75 downstairs. The preschool will be in the upstairs portion of the building. Chairman Ure states the preschool will not be close to the maximum allowed capacity so he has no objections to the waiver request.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY
MEMBER HARRINGTON TO GRANT THE WAIVER OF THE TRAFFIC
STUDY FOR CHECKLIST ITEM F. ALL WERE IN FAVOR.
SO MOVED

CHECKLIST ITEM G: On a separate site plan, indicate existing and proposed topography at two foot intervals.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK THAT THE REQUIREMENTS FOR CHECKLIST ITEM G HAVE BEEN MET. ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM H: Provide evidence that the proposed water supply has sufficient supply to support the proposed activity and is of drinking water quality.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER HARRINGTON TO ACCEPT THE WAIVER REQUEST FOR CHECKLIST ITEM H SINCE THE PROPERTY IS ON TOWN WATER. ALL WERE IN FAVOR.

SO MOVED

The Zoning Board Clerk reminds the applicants that if any Richmond residents are within 200' of the property, they will also have to be notified of the hearing. Chairman Ure explains that the back of the property might be within 200' of Richmond residents and those residents must also be notified via certified mail of the hearing.

Member Sposato enters the chambers.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK THAT THE CHECKLIST IS COMPLETE. ALL WERE IN FAVOR.

SO MOVED

The Board discusses if a solicitor is needed for the Hearing for the next Petition. The Board and Board Official agree it's a pretty straight-forward application, so the solicitor is not required to be in attendance.

Sitting as Board for Petition II: Ure, York, Baruti, Harrington, Sposato

Petition II – Hearing (cont'd from cancelled December meeting)

A Petition for a Dimensional variance filed by Courtney Cahill on behalf of herself with mailing address of 21 Yeles Lane, Rockville, RI 02873, for property owned by Courtney Cahill and Germaine Gurr located at 21 Yeles Lane, Rockville, RI 02873, and identified as AP 16 Lot 11, an RFR-80 Zone and filed in accordance with Section 9 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Applicant is present.
All fees have been paid.
All notices have been posted.

Chairman Ure asks that the applicant come up to the podium and state her name for the record. The applicant states she is Courtney Cahill of 21 Yeles Lane, Rockville RI 02873. Chairman Ure asks if the applicant has the green cards, which she produces an envelope to the Zoning Board Clerk. Chairman Ure then explains that the application was not deemed complete and was missing the biologist letter. He asks the applicant if she was able to obtain the letter. Ms. Cahill explains that she was not able to get the letter. She had called the septic person who had installed the septic system, who was Bill from Affordable Septic. She stated he didn't need one, so he didn't have one when he did the work on their septic system. Ms. Cahill went on to say that she called D.E.M. to see if they could recommend someone to help and spoke to four people who were unsure. She eventually left a message for a gentleman and are awaiting a callback. She was requesting to see if the Board would be amenable to allow her to move forward with the dimensional variance application, assuming the biologist letter is submitted later on. Chairman Ure asks the board their thoughts on making the application subject to the biologist letter before she can receive a building permit. Mr. Santilli explains that he won't issue a building permit until the biologist letter has been submitted. Ms. Cahill explains that the only biologist she found was up in Massachusetts and they had a three month waiting period.

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Chairman Ure explains that they can't currently move forward with the hearing. The Board discusses making it a condition of the approval. The Board would continue with the hearing and make the approval conditional to the submission of the biologist letter. The Building and Zoning department and Mr. Santilli would then accept the biologist letter on behalf of the Zoning Board at a later date, before the building permit has been issued. This would prevent the applicant from having to appear again in front of the Board.

Member Harrington states that the application is for a side dimensional variance, and though the pond is in the rear, the Hopkinton Town Ordinance is clear in requesting a letter from a biologist stating a permit is not required from the R.I. D.E.M. and if it does, they will have a permit. Member Harrington states he is worried that if the Board issues a variance subject to the letter, it may fall through the cracks. He stated the Board has required other applicants to produce the letter before getting approval and he doesn't want to set precedence. He states that if work is performed without a D.E.M. permit, yet the Zoning Board has issued the variance and it's included in the checklist, then the responsibility falls to the Board. Chairman Ure explains that they have previously issued a variance subject to other requirements. Member Harrington says this is a serious condition and the Zoning Board will not see the applicant again. Member Harrington explains that the trust to follow through will have to fall onto the Building Official. Chairman Ure explains they can require the Building department to issue notice to the Zoning Board of Review once the biologist letter has been received.

Ms. Cahill states she is also more than happy to provide a copy of the biologist letter to the Board herself once she receives it. Chairman Ure states that she could potentially just provide it to Mr. Santilli who could give it to the Board at the next meeting, or forward it to the Zoning Board Clerk, who can then forward it to the members of the Board. Chairman Ure stated it's to make sure the Zoning Board is following up on the conditions they imposed. Chairman Ure agreed with Member Harrington, stating that the Zoning Board of Review tends to not see the applicant again after approval and does not want to leave a loose end.

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After looking over the site plan, Member Harrington states that the surveyor shows the proposed deck is what would be closest to the pond and has a dimension of 72' to the edge of the pond. Member Harrington states this is greater than the 50' setback. Member Harrington explained that the edge of the pond is not always the edge of the wetland, so he wants to make sure the proposed deck is out of the requirement of having a D.E.M. permit.

Chairman Ure asks Member Baruti his thoughts on the matter.

Member Baruti states he doesn't think the responsibility should be delegated to the building inspectors' office. Member Baruti continues to say the relief requested by the applicant is considerable and the responsibility is on the Zoning Board to ensure all steps are adhered to as they are required. Member Baruti said if it was a simple traffic study or along those lines, he would be okay making it a condition. Member Baruti explained that operating within the jurisdiction of the R.I. D.E.M., they have an obligation to be sure that the application is in compliance. Member Baruti then explained that the applicant has known about the requirement for a couple of months. Member Baruti says it's a challenging project, but it would behoove the Board to follow the process.

Chairman Ure asks Member York for his thoughts.

Member York asks what the elevation change from the pond to the proposed house. Chairman Ure states it goes to 10-12 feet. Member York states it's not very steep. Member Harrington states that while it may not be steep, the wetlands may very well come right up to the proposed deck. Chairman Ure states the deck is probably about 8 feet higher than the pond. He then states the house probably sits higher, as well, and slopes off. Ms. Cahill agrees and states it's on a hill with a walkout basement.

Member Harrington explains that with his experience on the ponds and rivers, when there is work done on the edges, multiple calls get made to the D.E.M.. Member Harrington states this pond is not a densely populated pond, but there are residents living on the pond. Member Harrington explains that others cannot be expected to follow the rules if the Zoning Board is not following them. Chairman Ure explains

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that the biologist letter isn't getting waived. Member Harrington states he understands.

Chairman Ure then asks for Member Sposato's thoughts on the matter. Member Sposato stated that with Member Harrington and Member Baruti's objections, the hearing should be continued until the biologist letter is produced.

Ms. Cahill asks for clarification to see if she could still apply for the building permit considering the long wait for a biologist letter. Member Harrington stated they cannot give any names, but there are local biologists that shouldn't have that long of a wait. Mr. Santilli states he can provide names for Ms. Cahill because three months is a long time to wait. Member Harrington recommends contacting them as soon as possible because with snowy weather, it's not as easy to get a biologist to come survey the site.

Member Harrington states he's not opposed to continuing to the hearing. Chairman Ure states he understands, and that the biologist letter will still be required, but understands Member Harrington's concerns. Chairman Ure agrees that the Board shouldn't lose track of the condition.

Member Harrington asks the applicant if she wrote a letter to the direct abutter who is three feet off of the property line. Ms. Cahill states she did write a letter. Chairman Ure asks if there were any objections and Ms. Cahill states there weren't. Ms. Cahill states she thought he would come to the meeting, but knows he hasn't been feeling well. Chairman Ure explains that a letter from that abutter would help stating there are no objections to the project.

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER SPOSATO TO CONTINUE THE HEARING TO THE NEXT ZONING BOARD OF REVIEW MEETING ON FEBRUARY 18, 2021.

Member Harrington states the continuation would be subject to them having enough time to get the letter from the biologist. Member Harrington clarifies that what he's looking for is a biologist to go out, review the plans, hang flags to demarcate the wetlands and write the letter. Member Harrington explains that the letter would

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cover the requirement if it certifies that the project is outside of the R.I. D.E.M. jurisdiction. Chairman Ure explains to the applicant that if there is a delay in getting the letter from the biologist, to let either Mr. Santilli or the Zoning Board Clerk know so the hearing can be continued to the next month.

ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO ACCEPT THE MINUTES FROM THE NOVEMBER 19, 2020 MEETING. ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER HARRINGTON AND SECONDED BY MEMBER YORK TO ADJOURN THE MEETING AT 6:40 PM. ALL WERE IN FAVOR.

SO MOVED

Respectfully Submitted,

Tiana Zartman

Zoning Board Clerk

Next Scheduled Meeting: February 18, 2021