

ZONING BOARD OF REVIEW MEETING MINUTES – January 20, 2022

State of Rhode Island

County of Washington

In Hopkinton on the twentieth day of January, 2022 A.D. the said meeting was called to order at 7:15 PM by Zoning Board of Review Chairman Jonathan Ure in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Jonathan Ure, Joe York, Daniel Baruti, Ronnie Sposato, Daniel

Harrington, Zoning Board Clerk: Tiana Zartman; Alternate Member Chip Heil and Building Official Anthony Santilli were in attendance remotely

Absent: Alternate Member Phil Scalise; Town Council Liaison Michael Geary

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

Petition I – Determine completeness of application/consider waivers - Hearing
A Petition for a Dimensional Variance to allow three 40 foot storage containers and one 40 foot box trailer stored on site from October to May of each year. Petition filed by Bruce Bryant with mailing address of 93 Arcadia Rd, Hope Valley RI 02832, for property owned by Bruce Bryant located at 1127 Main Street, Hope Valley RI 02832, and identified as AP 28 Lot 142, 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 or representative present.

Filing fees paid and notice posted.

Discussion.

Decision.

Petition II – Determine completeness of application/consider waivers, potential Hearing (Cont.)

Special Use Permit to allow three 40 foot storage containers and one 40 foot box trailer stored on site from October to May of each year. Petition filed by Bruce Bryant, with mailing address of 93 Arcadia Rd, Hope Valley, RI 02832, for property owned by Bruce Bryant located at 1127 Main Street, Hope Valley, RI

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02832 identified as AP 28, Lot 142 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 or representative present
Filing fees paid and notice posted
Discussion
Decision

Chairman Ure states Petition I and Petition II will be combined and the checklists will be heard together. Chairman Ure states that the Special Use application was previously submitted and the Dimensional Variance application was being added. He explains when both are being requested, the checklist used is typically the Special Use Permit checklist since it is more inclusive. The only difference is the lettering in the positioning. He recalls that Checklist Item A was complete. The Clerk asks if that was voted on. Chairman Ure believes it was, but since the Dimensional Variance application is now submitted, it would be a good idea to vote on it again.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON THAT CHECKLIST ITEM A WAS COMPLETE FOR THE SPECIAL USE APPLICATION AND ALSO IS COMPLETE FOR THE DIMENSIONAL VARIANCE APPLICATION. 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.

Chairman Ure explains that Checklist Item B was where the issues began. There were additional Richmond residents and the Richmond Town Council that needed

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to be notified. Chairman Ure says that he provided an abutter list for Richmond, which included more residents than he was required to and notified each of them.

There was discussion amongst the Chairman Ure and Alternate Heil in regards to when members would be required to continue to sit as the board.

Chairman Ure and Member York go over the Richmond abutter map to make sure all required abutters are included on the map. The green cards that were submitted to the Board were not all inclusive. The applicant provided the receipt showing each green card that was mailed, but the receipt did not include addresses of where the certified letters were sent. The receipt, however, did include tracking numbers. A question was raised if this would be sufficient proof of mailing of the certified letter. Mr. Vaage explains that it would be sufficient as proof that an attempt to mail the letter was made. Chairman Ure states that the receipt shows fourteen letters were mailed, which was over the seven which were required to be notified. Chairman Ure explains that he feels this is sufficient proof.

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 on standards approved by the USDA Soil Conservation Service and in conformity with the R.I. Erosion and Sediment Control Handbook.

There was discussion amongst the board as to what was voted as complete at the last meeting.

The Board discusses the maps submitted and the differences between the maps. There are further discussions in regards to the wetlands on site and the required

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buffer. The Chairman explains that the checklist requires a letter from a biologist stating there are no freshwater wetlands, but in this case, that wouldn't apply. He states that the Board went forward to request that the wetlands on site be delineated. Member Harrington states it is more important to verify if there are any applicable permits required based on the wetlands that are on site. Chairman Ure reads the notation on the submitted map suggesting there's no required buffer with the wetlands on the parcel. Member Harrington states there is a 200 foot jurisdictional setback required. Chairman Ure explains the proposed containers are outside of the perimeter. Member Harrington suggests that the Board request something from a biologist certifying a permit is not necessary based on the flagging that has been done and the proposed location of the containers. He explains that if they received a certification from a biologist, it would cover the intent of the ordinance and that it could apply to the soil erosion plan.

Member Baruti states the discussion in regards to the biologist letter is one of his biggest concerns about the application and could not vote for a waiver of the checklist item. He would suggest requiring supporting documentation from the applicant's engineer stating an exemption to the setback requirement because of the size of the lot. Member Harrington clarifies that it wouldn't be an exemption because of the size of the lot, but the buffer would not be required because of the area of the wetlands. Member Baruti says that if a buffer is not required, then there would be no issue with any DEM regulations and that the applicant should bring in documentation proving a buffer is not required. Member Sposato agrees with Member Baruti. Member Baruti suggests they continue on with the checklist to make sure the other items are complete. Member Harrington states the letter should be relatively straightforward to get since the applicant has already retained a biologist. Member Baruti agrees and states that the biologist should have prepared a letter since he should have known what the Board requires to have for evidence.

Alternate Member Heil states that he found documentation that stated the following: Swamps must be three acres in size to be regulated, a pond must be ¼ acre in size and full of water for more than six months, marshes must be one acre or

greater, and bogs can be any size. He isn't sure what the wetlands on the property are considered, but this is a Frequently Asked Question document found on the R.I. DEM website. Chairman Ure states the biologist company states it is a forested wetland less than three acres, so it doesn't fall under the same setback requirements as the others because it's smaller. Member Harrington states that none of the Board members are biologists and are unable to make a determination and, therefore, the applicant should get a letter. Chairman Ure agrees that the Board should defer to an expert's opinion on the matter.

Member Harrington states the soil erosion requirement goes hand in hand with the biologist letter and that the letter can satisfy both checklist items. Member York questions if it is required since there is no disturbance of the soil. Member Baruti also asks if the container is considered temporary since no construction will take place. Member Harrington clarifies that even if the structure is temporary, if a wetlands permit is required, the drainage and pervious area will also be accounted for. Member Sposato states that the Board is unsure of the wetlands until a biologist proves which wetlands are on the property.

Mr. Bryant, the applicant, states that when the river floods, the water comes over and he gets the overflow that is trapped. He explains that depending on the year, sometimes he gets no water at all. Chairman Ure states that the Board understands, but they need an expert to confirm. Mr. Bryant states it would be called a seasonal wetland. Chairman Ure disagrees and states that the biologist firm, Ecotones, is calling it forested wetlands and not seasonal wetlands. He continues to say that it's not up to the Board to decide and that an expert must supply their determination of the wetland. Currently, Checklist Items C and D cannot be completed. Chairman Ure details that the letter from a biologist that the applicant submits must state what kind of wetlands are on site and that no DEM permits are required based on the wetlands on site and the activity proposed.

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CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by R.I. DEM – 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 York states the applicant requested a waiver for this checklist item. Chairman Ure states the septic has been marked on the plan that was submitted. Member Harrington states he's just adding a couple of storage containers. Chairman Ure agrees and says that no new construction is being proposed and that the applicant has met the requirement.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER SPOSATO TO APPROVE THE REQUESTED WAIVER FOR CHECKLIST ITEM E. ALL WERE IN FAVOR.

SO MOVED

There was discussion amongst the Board if the applicant should amend the application to request a waiver for Checklist Item E. Chairman Ure states that the application provides the location of the septic system, but it wasn't required, so he doesn't think it matters. Mr. Vaage states that if the applicant provided the location of the septic and the Board finds it satisfactory, they should accept it as complete.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER SPOSATO TO MODIFY THE PREVIOUS WAIVER REQUEST FOR CHECKLIST ITEM E. ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER SPOSATO THAT THE APPLICANT HAS SATISFIED THE REQUIREMENT FOR CHECKLIST ITEM E IN THAT HE IDENTIFIED THE LOCATION OF THE SEPTIC SYSTEM, THE APPLICATION DOES NOT

CONTEMPLATE CONSTRUCTION AND THEREFORE, R.I. DEM APPROVAL IS NOT REQUIRED. ALL WERE IN FAVOR.

SO MOVED

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

Member York explains the applicant has requested a waiver for Checklist Item F.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO APPROVE THE REQUESTED WAIVER FOR CHECKLIST ITEM F.

Member Harrington asks the applicant if there would be any increase in customer traffic because of the containers. The applicant states he had two customers today. Member Baruti asks how long he has been in business at that location. Mr. Bryant answers five years. Member Baruti asks if there have any accidents caused by his business. Mr. Bryant explains the only accidents have been caused by the little league fields or the sun in the eyes of drivers, which usually results in a driver rear-ending another driver. Member Baruti asks to clarify if any accidents have been caused by his business. Mr. Bryant says no. Member Baruti asks if he is open all year round. Mr. Bryant states he is on call during this time of year, but that he is available.

Member Harrington states the applicant is available year round and in five years, there have been no traffic problems. Chairman Ure agrees, saying he doesn't think a traffic study is required since the clientele is not increasing because of the proposed containers. Chairman Ure asks the applicant if he gets deliveries. Mr. Bryant explains that he goes to get everything. Chairman Ure states the trailer that will be seasonal was previously parked in an awkward spot. Member Sposato explains that a traffic study wouldn't address that issue. Member Harrington states that it might

deal with sight distances. Chairman Ure explains that where it was located before could have sight line issues since it ran parallel to the road. Member Sposato explains the Board could add a condition of the location of the trailer, assuming approval of the application. He continues saying the issue wouldn't be addressed by a traffic study.

Mr. Vaage explains that the special use permit requires that the location on the premises where the activity takes place has to be established. Member Baruti states it's shown on the plan. Chairman Ure disagrees and states the box trailer is not on the submitted plan. Member York states the structure isn't permanent.

Chairman Ure explains his hesitation is the sight line issue for people pulling out of the parcel with the container placed in the previous location. He admits a traffic study may not address the issue.

Member Harrington asks the applicant how long the box trailer has been on site. Mr. Bryant explains it's on and off since he started the business, but that he pulled it off last year.

Chairman Ure explains the box trailer is mobile and not on the plan. He explains that they can ask for a specific location of the box trailer when the Board opens the hearing. Mr. Bryant admits he may not bring in the box trailer. Chairman Ure explains he's fine with waiving the traffic study.

ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM G: On a separate site plan, indicate existing and proposed topography at two (2) foot intervals.

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Member York explains the applicant requested a waiver. Chairman Ure states the applicant doesn't need a waiver granted.

A MOTION WAS MADE BY MEMBER YORK TO WAIVE CHECKLIST ITEM G.

Member York rescinded his motion.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER BARUTI THAT CHECKLIST ITEM G HAS BEEN SATISFIED. 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 drinking water quality.

Chairman Ure says the well is shown on the plans. Member Harrington asks the applicant if he is on town water. Mr. Bryant says he isn't. Chairman Ure states the well is on the plan. Member Baruti says the proposed use is not increasing the use of water. Chairman Ure states the applicant has requested a waiver.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER HARRINGTON TO APPROVE THE WAIVER REQUESTED FOR CHECKLIST ITEM H. ALL WERE IN FAVOR.

SO MOVED

Chairman Ure explains to the applicant that the remaining open items are Checklist Items C and D and the Board cannot approve the checklist without a letter from a biologist confirming no permits are required.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO CONTINUE THE APPLICATION TO THE ZONING BOARD OF REVIEW MEETING ON FEBRUARY 17, 2022.

Member Baruti encourages the applicant to follow up on the missing green cards. Chairman Ure states some of the recipients might be seasonal and therefore, may not check their mail regularly. Mr. Bryant asks for clarification in regards to the letter required. Chairman Ure states the letter must be from a biologist and not his engineer. Chairman Ure clarifies the letter has to be specific in that the R.I. DEM does not require any permitting based on the proposed activity.

Member Baruti explains to the applicant it might be wise to have the engineer revise the submitted map to include the location of the proposed trailer. He states that he would hesitate to vote to approve the application if the location of the trailer would make the Board lean toward having a traffic study completed. Chairman Ure explains that the Board must consider anything that is proposed. If the applicant wishes to rescind the trailer, the application must be amended to reflect the absence of said trailer.

Alternate Member Heil asks for clarification in regards to the traffic study. He asks if the Board has already waived the requirement for a traffic study, would the Board have the ability to ask for items that have previously been waived? Member Sposato explains the Board is not asking for anything in relation to the traffic study. Chairman Ure goes on to say the application checklist hasn't been approved. If an error or deficiency is found, the Board has the ability to correct it and hold another vote on the issue. Mr. Vaage explains that if information is found that changes the Board's analysis of the application, the Board has the authority and is required to address the issue. Chairman Ure agrees and states that the Board has the ability to place conditions on the approval. Member Sposato imagines that the application couldn't be denied over a traffic issue because the traffic study was waived, but that's not what the Board is discussing. Chairman Ure agrees and states the

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placement of the container is the issue. Member Harrington states the issue goes back to the site plan and is not related to a traffic study. Member Sposato agrees and states that the Board can adjust the location and make it part of a condition of approval.

ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER YORK TO ACCEPT THE MINUTES FOR THE NOVEMBER 18, 2021 MEETING AND THE DECEMBER 16, 2021 MEETING.

The Board discusses the members sitting as the Board for each meeting.

Member York rescinded his motion.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO APPROVE THE MINUTES FOR THE NOVEMBER 18, 2021 MEETING. BOARD MEMBERS AT THE MEETING WERE CHAIRMAN URE, MEMBER YORK, MEMBER BARUTI, MEMBER SPOSATO, AND ALTERNATE MEMBER HEIL. THOSE MEMBERS WERE IN FAVOR. MEMBER HARRINGTON ABSTAINED.

SO MOVED.

A MOTION WAS MADE BY MEMBER SPOSATO TO APPROVE THE MINUTES OF THE DECEMBER 16, 2021 MEETING.

Member Baruti discusses how and why the meeting was cancelled at the start of the December meeting. He asks for clarification as to how people could show up to a meeting and have it be cancelled before it began. Chairman Ure explains Member York notified the Chairman of his absence and Alternate Member Heil notified the

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Clerk of his absence. Chairman Ure states he tried to email the solicitor and the Clerk in regards to Member York being sick, but the email was not delivered. The Board discusses how to handle the notification of an absence in the future. Member Harrington suggests that a new alternate be appointed since Alternate Scalise hasn't attended any previous hearings and wouldn't have been able to sit at the meeting on December 16, 2021. Chairman Ure states they are getting off topic.

THE MOTION WAS SECONDED BY MEMBER BARUTI. THE MEMBERS PRESENT AT THE DECEMBER 16, 2021 MEETING WERE CHAIRMAN URE, MEMBER SPOSATO, AND MEMBER BARUTI. ALL WERE IN FAVOR. MEMBER HARRINGTON ABSTAINED.

SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO ADJOURN AT 8:16 PM. ALL WERE IN FAVOR.

SO MOVED

Respectfully Submitted,

Tiana Zartman

Zoning Board Clerk

Next Scheduled Meeting: February 17, 2022