

ZONING BOARD OF REVIEW MEETING MINUTES – November 18, 2021

State of Rhode Island

County of Washington

In Hopkinton on the eighteenth day of November, 2021 A.D. the said meeting was called to order 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, Alternate Member Chip Heil; Building Official Anthony Santilli

Alternate Zoning Board Clerk: Elizabeth Monty

Absent: Member Daniel Harrington, Zoning Board Clerk Tiana Zartman; Alternate Member Phil Scalise; Town Council Liaison Michael Geary;

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

Petition I – Determine completeness of application/consider waivers. (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 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 the application was waiting for the wetlands to be flagged by a biologist. Member Heil asks if the DEM guidelines are still the same. After confirming there is a fifty foot setback per DEM regulations, he states that it looks like the containers are within that setback. Chairman Ure explains those kinds of

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questions should be saved for the hearing. He asks Member York what items were missing in the application. Member York explains Checklist Item B and Checklist Item D were incomplete.

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.

The Board discusses with the applicant notifying the abutters in Richmond and the Richmond Town Council. Chairman Ure states the application is still incomplete since the abutter list does not include the Richmond residents. The Board explains to the applicant how to get an abutter map and list from Richmond.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER YORK THAT CHECKLIST ITEM B IS UNSATISFIED, BUT WILL BE SATISFIED BY THE APPLICANT WITH SUFFICIENT PROOF THAT ALL NECESSARY ABUTTERS ARE NOTIFIED. ALL WERE IN FAVOR.
SO MOVED

Member York states that a waiver was requested for Checklist Item C. He continues to say that Checklist Item D was still open.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL THAT CHECKLIST ITEM D HAS BEEN SATISFIED BY THE FLAGGING OF THE WETLANDS BY ECOTONES AND THE APPLICANT PROVIDING AN UPDATED SITE PLAN SHOWING WETLAND DELINEATION. ALL WERE IN FAVOR.
SO MOVED

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Member York states Checklist Item E was complete, a waiver was requested for Checklist Item F, Checklist Item G was complete, and Checklist Item F was waived.

Chairman Ure states they cannot vote to approve the application since there are missing items. Member Heil requests clarification on approving the application and going to a hearing. Chairman Ure explains they will schedule the hearing for a future date, but the hearing cannot proceed until the application has been approved. Chairman Ure explains that the missing documents can be submitted to the clerk before the scheduled meeting so the Board can go directly into the hearing. Chairman Ure states that it will be scheduled for January 20, 2022.

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

PETITION II – Determine completeness of application/consider waivers
Special Use Permit to allow a pharmacy to serve the Wood River Health Clinic and its patrons. Petition is filed by Genoa Healthcare Pharmacy, with mailing address of 400 Perry Highway, Building 1 Suite 101, Pittsburgh PA 15229, for property owned by Wood River Health Services located at 823 Main Street, Hope Valley, RI 02832, identified as AP 14 Lot 47A, an RS 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 explains the Board will go through the checklist to make sure each item is complete. The applicant requests clarification because he was under the assumption the requested project would be handled administratively. Mr. Santilli explains that his office accepted the application and looked through it, but that it must be handled by the Zoning Board of Review since it was an expansion of use on a previously granted Special Use Permit. Member Baruti asks if it was

considered an expansion of use. Mr. Santilli explains he didn't think he had the authority to approve it. Mr. Vaage explains that it would be an expansion of a non-conforming use since the use of a pharmacy is not explicitly approved. Chairman Ure asks if it would be considered an accessory of a health center. Mr. Vaage says that could be another argument you could make, but that even if it's an accessory use, it's still an expansion of a non-conforming use. Member Heil requests clarification on what the current zoning allows. Chairman Ure explains the property is operating in a residential zone, so it does not allow a pharmacy. Member Heil asks if the special use allows a healthcare center, but not a pharmacy. Chairman Ure says it's not that specific. The Board discusses the difference between a public pharmacy as opposed to a pharmacy exclusive for the healthcare facility. Chairman Ure suggests they move forward with the application and accept it to be heard since the discussion has turned to approving or disapproving the application.

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 (1) inch = forty (40) 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[& 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

Chairman Ure explains that a waiver was requested.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO WAIVE CHECKLIST ITEM A AND TO REFER TO THE SITE PLAN THAT WAS SUBMITTED AT THE SEPTEMBER 23, 2021 MEETING. 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 says he is not comfortable waiving this request. Member Sposato says the map is the same as previously submitted, but they are not requesting to not notify the abutters. Chairman Ure agrees and states he is okay with that.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK THAT CHECKLIST ITEM B IS WAIVED AS AN ABUTTERS MAP WAS PREVIOUSLY SUBMITTED AT THE SEPTEMBER 23, 2021 MEETING, BUT THE APPLICANT IS STILL REQUIRED TO NOTIFY THE ABUTTERS. 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.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM C AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021. ALL WERE IN FAVOR.

SO MOVED

CHECKLIST ITEM D: A letter from a biologist indicating that there are no freshwater 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 Environmental Management, and where applicable, the U.S. Army Corp of Engineers, shall be required.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM D AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021. ALL WERE IN FAVOR.

SO MOVED

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.

A MOTION WAS MADE BY MEMBER HEIL AND SECONDED BY MEMBER YORK TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM E AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021. ALL WERE IN FAVOR.

SO MOVED

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

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL TO GRANT THE REQUESTED WAIVER FOR CHECKLIST

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ITEM F AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021. ALL WERE IN FAVOR.

SO MOVED

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

A MOTION WAS MADE BY MEMBER HEIL AND SECONDED BY MEMBER YORK TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM G AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021. 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 YORK AND SECONDED BY MEMBER SPOSATO TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM H AND REFER TO THE PREVIOUSLY SUBMITTED APPLICATION ON SEPTEMBER 23, 2021.

Member Baruti says it would be more appropriate for the Clerk to introduce the Checklist Items A, B, C, D, E, F, G, and H from the previous applications as part of the record so that these are not waivers. Member Baruti states the only waiver granted is on Checklist Item F for the Traffic Study, since it was waived at the previous application. Member Heil agrees, but the votes have already been taken, so the waivers have been granted. Member Sposato explains that a motion can be rescinded. The previous motion was rescinded.

A MOTION WAS MADE BY MEMBER BARUTI AND SECONDED BY MEMBER SPOSATO TO ACCEPT CHECKLIST ITEMS AS SUBMITTED AT

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THE SEPTEMBER 23, 2021 MEETING INCORPORATED WITH THIS APPLICATION BY REFERENCE FOR CONSIDERATION AT THE HEARING. ALL WERE IN FAVOR.
SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO GRANT THE REQUESTED WAIVER FOR CHECKLIST ITEM H AND TO REFER TO THE APPLICATION SUBMITTED ON SEPTEMBER 23, 2021. ALL WERE IN FAVOR.
SO MOVED

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

Chairman Ure states they will be heard at the meeting on December 16, 2021.

PETITION III – Determine completeness of application/consider waivers

A Petition for a Dimensional Variance to allow a reduction in lot frontage from the required 100 feet. Petition filed by Nick Mandes on behalf of Clarks Falls, LLC with mailing address of 15 Clarks Falls Rd, North Stonington, CT 06359, for property owned by Clarks Falls, LLC located at 0 Tanner Lane, Ashaway, RI 02804, and identified as AP 5 Lot 57E, 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.

Petition IV – Determine completeness of application/consider waivers

A Petition for a Special Use Permit to allow for a single family residence. Petition filed by Nick Mandes on behalf of Clarks Falls, LLC with mailing address of 15 Clarks Falls Rd, North Stonington, CT 06359, for property owned by Clarks Falls, LLC located at 0 Tanner Lane, Ashaway RI 02804, and identified as AP 5 Lot 57E, 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.

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Discussion.

Decision.

Member Heil asks if Petition III and Petition IV are out of order. Chairman Ure states that when they have a dual application, they usually take the application that has the most information included to look at. In this case, it would be the Special Use Permit application. Mr. Steven Marien is present on behalf of the owner.

Chairman Ure says that the applicant is asking for a waiver on much of the application. Mr. Marien explains that the intent is to request approval subject to providing the site plan after the fact. Chairman Ure states nothing has been provided. Mr. Marien states he will inform the applicant to produce a site plan if the Board feels it is required. Chairman Ure explains the applicant is requesting a dimensional variance prematurely and another pre-application hearing is required. Mr. Marien explains that some of the checklist has been produced. He goes on to say that the Special Use request is for building the residence on a lot that was created after the Zoning Ordinance was adopted, and the Dimensional Variance is requested because the parcel does not have road frontage. He says access to the parcel is on a forty foot right of way. Member Baruti asks if there was any documentation given proving the right of way access. Mr. Marien points to the map provided that shows the right of way. Member Baruti asks if there was documentation showing there is a valid and existing right of way. Mr. Marien states he does have that documentation. Member Baruti states it is required to be a part of the application. Mr. Marien states that the survey provided is certified by a land surveyor certifying the right of way as a means of access to the lot. Member Baruti states he needs to see a certificate of title. Chairman Ure explains that the original deed has some conditions pertaining to this lot when it was subdivided. One of the conditions is frontage on a hard road. The other parcels neighboring this lot have frontage on paved roads, but this lot does not. The only access to the property is by right of way. Member Baruti explains that if an approval is granted by the Zoning Board, it could be challenged on the basis that the parcel does not have access via

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the right of way. He goes on to say that a title certificate should not be difficult to get by the owner of the property. Mr. Marien clarifies that the map, which includes the right of way and the book and page the right of way has been granted, will not be sufficient. Member Baruti explains that even if the right of way has been recorded, it is insufficient to establish the right of use of the right of way. Chairman Ure asks how that would satisfy the deed restrictions on record. Mr. Marien states he is unaware of the deed restrictions and his research did not reveal any restrictions on the property.

The Board discusses what will be required to satisfy the right to use a right of way. They agree that a title certificate provided by a lawyer will be sufficient to prove the property can be accessed by the right of way.

Chairman Ure states he is uncomfortable granting waivers without having a site plan. Member Sposato agrees. Member Baruti asks if the applicant provides a site plan on the survey map provided, would the Board consider waiving the OTWS approvals subject to providing it before the permit is issued. Chairman Ure states that the Board could decide to handle the application that way.

A MOTION WAS MADE BY MEMBER HEIL AND SECONDED BY MEMBER YORK TO CONTINUE PETITION III AND PETITION IV TO THE MEETING ON DECEMBER 16, 2021. ALL WERE IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SPOSATO TO ACCEPT THE MINUTES FROM THE OCTOBER 21, 2021 MEETING. CHAIRMAN URE, MEMBER YORK, MEMBER BARUTI, AND MEMBER SPOSATO WERE IN FAVOR. MEMBER HEIL ABSTAINED.

SO MOVED

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A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY
MEMBER HEIL TO ADJOURN THE MEETING. ALL WERE IN FAVOR.
SO MOVED

Respectfully Submitted,
Tiana Zartman
Zoning Board Clerk

Next Scheduled Meeting: December 16, 2021