

ZONING BOARD OF REVIEW MEETING MINUTES – OCTOBER 20, 2022

State of Rhode Island

County of Washington

In Hopkinton on the twentieth of October, 2022 A.D. the said meeting was called to order at 7:07 PM by Zoning Board of Review Chairman in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Johnathan Ure, Daniel Harrington, Daniel Baruti, Joseph York, Ronnie Sposato, Chip Heil, Phil Scalise, Attorney Stephen Sypole of Gidley, Sarli, and Marusak LLP.

Zoning Board Clerk: Katrina Caputo

Building Official Anthony Santilli

Absent: Town Council Liaison Michael Geary

Sitting as the Board for Petition II: Ure, York, Sposato, Heil, Scalise

Petition II-Determine completeness of application/consider waivers

A Petition for a Special Use Permit and a Dimensional Variance to allow for a new construction of a single-family home. Petition filed by Robert Bruce and Wendy Bruce with mailing address of PO Box 536, Hope Valley, RI 02832, for property located at 3 Lakeside Drive Extension, Hopkinton, RI 02804, and identified as AP 27 Lot 111, 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.

Discussion.

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Decision.

Chairman Ure explains to the applicant that the Board is going to use the Special Use Checklist since it is more inclusive of everything that's on the Dimensional Variance 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:

- Name and 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 address of all property owners within 200 feet of subject property
- Best Management Practice work-plan where required
- Any peculiar site conditions or features

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL THAT CHECKLIST ITEM A IS COMPLETE. ALL IN FAVOR.

SO MOVED

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CHECKLIST ITEM B: Three copies of a separate map indicating all property owners within 200 feet of the subject property and/or all of those owners and entities which require notice under section 45-24-53 of the 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 SCALISE THAT CHECKLIST ITEM B IS COMPLETE. ALL 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 Conservations Service and in conformity with the R.I. Erosion and Sediment Control Handbook.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SCALISE THAT CHECKLIST ITEM C IS COMPLETE. ALL 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.

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A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER SCALISE THAT CHECKLIST ITEM D IS NOT APPLICABLE. ALL IN FAVOR.

SO MOVED

CHECKLIST ITEM E: Location of existing septic system. Where construction requires approval by the 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 YORK AND SECONDED BY MEMBER SCALISE THAT CHECKLIST ITEM E IS COMPLETE. ALL IN FAVOR.

SO MOVED

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

Chairman Ure states that the applicant requested a waiver for Checklist Item F.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SCALISE TO GRANT THE WAIVER FOR CHECKLIST ITEM F. ALL IN FAVOR.

SO MOVED.

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

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER SCALISE THAT CHECKLIST ITEM G IS COMPLETE. ALL 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 states that the applicant requested a waiver for Checklist Item H. He explains that he thinks their intent was to waive the requirement since it is an existing well. He states that they don't need a waiver for this checklist item.

A MOTION WAS MADE BY MEMBER SCALISE AND SECONDED BY MEMBER YORK THAT CHECKLIST ITEM H IS COMPLETE. ALL IN FAVOR.

SO MOVED

Chairman Ure explains to the applicant that the hearing will be scheduled for November 17, 2022.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HEIL FOR A FIVE-MINUTE RECESS. ALL IN FAVOR.

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SO MOVED

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO RECONVENE THE MEETING. ALL IN FAVOR.

SO MOVED

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

Petition I- Determine completeness of application/consider waivers/ Hearing (cont.)

A Petition for a Special Use Permit to allow for a short-term rental. Petition filed by Martha Powers and Nancy Striuli with mailing address of 107 Cady Ave, Warwick, RI 02889, for property located at 19 Egypt Street, Hopkinton, RI 02804, and identified as AP 25 Lot 201, 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.

Discussion.

Decision.

Chairman Ure explains to the applicant that since one of the abutters was not notified, the Board is unable to move into a hearing tonight. He continues, that until they are notified by certified mail, the Board cannot move forward. Chairman Ure states that the only item the Board needed to complete the Checklist is the water quality test.

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Attorney Cagen, representing the applicants, provides the Board with a water quality test report. Chairman Ure explains that the test was completed by Aquatech, a company out of Connecticut. He states that the report shows the water is safe for drinking.

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO ACCEPT THE WATER QUALITY TEST REPORT. ALL IN FAVOR.

SO MOVED

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

SO MOVED

A MOTION WAS MADE THAT THE SPECIAL USE PERMIT CHECKLIST IS COMPLETE SUBJECT TO ONE ABUTTER, MARGARET AND FREDRICK ROEVER, BEING NOTIFIED BY CERTIFIED MAIL. ALL IN FAVOR.

SO MOVED

Attorney Cagen asks the Board if he will need to send out just the one abutter's notice or if he would need to resend them all out again. Chairman Ure explains that the applicants only need to send out the notice to the one abutter that had not been notified. Attorney Sypole states that because a public hearing hasn't been opened yet he is unsure if all the abutters would need to be re-notified by certified mail. Attorney Sypole advises Attorney Cagen that re-notifying all of the abutters would

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be the cautious thing to do. Attorney Cagen states that he would be willing to re-send all of the abutter's notifications to err on the side of caution.

Chairman Ure states he has a concern with the application being presented as a short-term rental. He explains that there is no District Use Table for a short-term rental in the town of Hopkinton and without having a District Use it is prohibited. Chairman Ure explains to the applicants that we would be creating a new use so they would have to go to the Town Council and get it put into the District Use. Attorney Cagen states that the Town does have a use for a bed and breakfast which is a short-term rental. Chairman Ure responds that a bed and breakfast is entirely different than an Airbnb. He explains that a bed and breakfast has an employee or a home owner on the premises. He continues to say that he is not for or opposed to Airbnb but this is procedural and the hurdle is that it is not a prohibited use.

Building Official Santilli states that when reviewing the Egypt St application, he tried to retrofit them into a bed and breakfast. He explains that they want to have some controls on short-term rentals. Building official Santilli states that Chairman Ure is correct and anything not in the District Use Table is a prohibited use. He continues to explain that the Town is currently writing an ordinance on short-term rentals. Member Baruti asks Building Official Santilli where the term short-term rental originates from. Building Official Santilli states that with a bed and breakfast technically the owner has to live on the premises. He continues to say that with an Airbnb, the owner has to be registered with the state of Rhode Island. Building Official Santilli explains that if the Town tells people that they don't have an ordinance, they may go ahead and start an Airbnb and the Town is trying to get some controls on them. Attorney Cagen states that he believes people in town already have already gone ahead and opened Airbnb's. Building Official Santilli agrees that there are already Airbnb's in town. Chairman Ure states to the applicants that he appreciates them coming before the Board and doing the right

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thing. He explains that it will benefit the applicants in the future. Chairman Ure explains that Airbnb's are going to run into issues if they aren't registered or approved by the Town and there would be huge liabilities as well. Chairman Ure states that if a renter gets hurt on their property that their homeowner's insurance won't cover it. Ms. Power's states that Airbnb has a One-Million-dollar policy to cover any issues with liability. Chairman Ure states that a renter could sue everybody including the applicants themselves.

Attorney Cagen explains that he feels frustrated that their application has been allowed to progress to this point. Chairman Ure states that he doesn't blame them for feeling frustrated and explains that their application hasn't progressed since they haven't gotten through the pre-app process and aren't at the hearing yet. He explains that they can't just create a use and file it, they can propose it but it has to fit, and if it doesn't fit it's prohibited. Member Baruti states that it is going to be up to Attorney Cagen now that the applicant is aware of Chairman Ure's concern. Member Baruti explains that they should try to demonstrate where the term short-term came from. He continues to say that he knows the state enacted legislation that requires Airbnb's to be registered with DBR. Attorney Sypole states that the state may have a definition for short-term rental since they have tax laws. Member Baruti explains that he believes Providence's definition of short term is 28 days or less and Newport's definition of short-term is 30 days or less. He continues to say that the application is filed under the term short-term which has yet to be defined. Member Baruti asks Building Official Santilli if they could just use the term rental instead of short-term rental. Building Official Santilli explains that we can't stop people from renting their property. Attorney Cagen asks Building Official Santilli if the applicants would need a Special Use Permit for a rental. Building Official Santilli states that he would not say the applicants would need one for a rental. Member Harrington states that this isn't a rental that someone would live in 365 days a year. Member Sposato asks Building Official Santilli if he wanted to rent

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his house for a week or two days, is there anything stopping him for doing so. Member Harrington states to Member Sposato that the problem is the two days become three different tenants a week while people in the residential neighborhood are working, tenants are making noise and enjoying themselves.

Attorney Cagen asks Building Official Santilli if he has any idea when an ordinance might be created for short term rentals. Building Official Santilli states that they will have to write the ordinance and then go to the Planning Board and have them give a recommendation on how to handle this. He states that there are probably a lot of short-term rentals that the Town isn't aware of. Ms. Powers states that the Town has super hosts. She explains that super hosts are Airbnb hosts that have a certain amount of good reviews. She continues to say that Airbnb's are already being done in Town but she appreciates that they are doing it the right way. Member Sposato states that there is nothing in his mind right now that would stop them from moving forward and opening their Airbnb since it's already being done and the Town doesn't have a specific ordinance for it. Chairman Ure explains to the applicant that he doesn't think the Building and Zoning department can stop them from renting their property out. He continues to explain that the applicant is ahead of the Town and the district uses. He states that the applicants are pioneering this for others and themselves. Chairman Ure states to the applicants to come back and reapply when the Town creates an ordinance. Ms. Powers asks if they are allowed to rent the property out in the meantime. Chairman Ure states that he isn't going to answer that. Attorney Cagen asks the Board if this matter can be continued when the Town passes an ordinance. Chairman Ure explains that it will likely be too long of a time frame for a continuance and recommends the applicants reapply. Member Sposato explains that depending on what the Town writes in the ordinance, the applicants might not need to come before the Zoning Board, they may just need to go to the Building Official's office to get a permit.

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Member Baruti states to the applicants that he doesn't want to discourage them from coming back. He explains that there may be benefits to getting this Special Use permit in advance of the ordinance. Member Sposato explains to the applicants that if their Attorney is able to find a place for their short-term rental application within the District Use Tables, the Board would be more than happy to hear it. He states to Attorney Cagen that if he is able to find anything, they can come back next month for the Hearing. Member Sposato explains that the Board will schedule the Hearing for next month and the applicants can decide before then if they would like to continue their application or withdraw. Chairman Ure states to the applicants that if they want to withdraw their application without prejudice, they can reapply later on. He states that the Board will schedule them for a Hearing on November 17, 2022. He explains if they decide to withdraw that is fine or if they need more time and want to continue it, the Board is happy to do that for a month or two.

A MOTION WAS MADE BY MEMBER YORK AND SECONDED BY MEMBER HARRINGTON TO APPROVE THE MINUTES FROM THE SEPTEMBER 15, 2022 MEETING. ALL IN FAVOR.

SO MOVED

A MOTION WAS MADE BY MEMBER SPOSATO AND SECONDED BY MEMBER YORK TO ADJOURN THE MEETING AT 8:04 PM. ALL IN FAVOR.

SO MOVED

Respectfully Submitted,

Katrina Caputo

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Zoning Board Clerk

Next scheduled Meeting: November, 17 2022