

**TOWN OF CASTLETON
DEVELOPMENT REVIEW BOARD MEETING
MINUTES OF APRIL 17, 2018
CASTLETON TOWN OFFICES**

MEMBERS PRESENT: D. Wood, B. Day, G. Chader, V. Waldron- alternate

ABSENT MEMBERS: J. Mark

OTHERS PRESENT: Jeff Biasuzzi, Zoning Administrator, see attached list.

The meeting was called to order at 7:00 by B. Day

APPROVAL OF AGENDA

MOTION: G. Chader made a motion to approve the agenda as presented. Seconded by D. Wood. All in favor. Motion carried.

NEW BUSINESS

JOHN & PAMELA REHLEN, 575 MAIN STREET CASTLETON, DBA CASTLETON PIZZA & DELI, 575 MAIN STREET, CASTLETON TO CONSIDER EXPANSION OF A NON CONFORMING STRUCTURE WITH OPEN DECK & RAMP.

J. Biasuzzi addressed the Board stating there had been a site review of the property at 6:00pm. He suggested the Board direct any questions to the applicants as they are present.

J. Biasuzzi stated the permit was installing a ramp and an open deck on the existing property and the parking lot will be unchanged.

V. Waldron stated that she had reviewed the zoning and did not see anything in zoning regulations that allowed parking on RT 4 to count toward a business' required parking spots.

B. Day stated the Board needed something that shows the Board that its your property from the back of the building to the pin and /or end of property line.

J. Rehlen replied that the dimensions that are on the permit are the lot size.

B. Day stated that the permit states the property is 92 ft from front to back and applicant only owns 22ft from the back of the building into the parking lot.

J. Rehlen replied that this was correct.

D. Wood commented that the pin J. Rehlen pointed out to the Board is not his pin.

PAGE 2 - DEVELOPMENT REVIEW BOARD MEETING MINUTES OF APRIL 17, 2018

J. Rehlen replied that the owner of Ellis Orchard took him out back and said that's my pin. All these years I have never measured from the front to that pin.

V. Waldron asked who owned the area of the parking lot from the pin to the back of the parking lot.

J. Rehlen replied it must be Mr. Ellis.

B. Day asked about the off street parking.

J. Rehlen replied that he had spoken to J. Biasuzzi, Z.A. the day the permit was applied for and went over some scenarios regarding the deck and outside seating and stated that the ZA had said if they would not need a permit if they just put seating out on the black top.

J. Biasuzzi responded that the town had been asked the question previously about outside dining and it's not addressed in zoning. It's not specifically prohibited. But whether or not the town has had a policy change that I am not aware of. I have spoken to the previous town manager and Police Chief there seems to be no objection to outside dining. Outside dining has a history in front of the Birdseye and other venues I may not be aware of. It's more of an ordinance related issue at this time not a zoning related issue. We don't have a regulation in zoning that addresses outside dining.

B. Day interrupted J. Biasuzzi to swear in the participants.

J. Rehlen stated he and J. Biasuzzi then talked about handicapped ramps and possible moving the ramp at the front of the building to the back of the building. He asked the ZA if handicapped ramps were included in deck and it was a little unclear about that outcome. Federal law allows the ramp to be built regardless of what the setbacks are.

J. Rehlen continued that they would move the ramp to the back and include the ramp in the deck and this will get the handicapped people accessibility to the back of the building. We are looking just to move the parking, we think it will work the way it is now, in terms of the diagonal parking along the potential new deck.

J. Rehlen stated that going way back when they originally made this permit, this is the same map I have used, just made copies of it, on street parking was permitted to satisfy the parking requirements. In addition to that we have parking at the Texaco Station and behind the beauty shop, "long block".

G. Chader asked about clarification on parking, stating that J. Rehlen is allowed 75 patrons and needs 25 parking spots. The map shows parking for 11, where are the other 14.

J. Rehlan stated he does have seating at 78 as of this days count.

PAGE 3 - DEVELOPMENT BOARD MEETING MINUTES OF APRIL 17, 2018

G. Chader noted that they are bringing forward what has been decided historically, so we are all on the same page moving forward.

D. Wood noted that if J. Rehlen eliminated handicapped ramp in the front, two parking spots might open up.

G. Chader asked about the other off site parking areas.

J. Rehlen stated they have the Texaco Parking lot, which is currently is meeting the needs of 3 of the apartments above the store, for a total of 5 bedrooms. I don't know what that is in terms of parking spots. In addition, I mentioned to some of you, the parking behind the beauty shop, also known as "long block".

J. Rehlen asked J. Biasuzzi if he recalled the looking at the parking there for this permit.

J. Biasuzzi stated it wasn't brought up in their conversation for this particular application. They have looked at it for the Diner on occasion, and did establish was J. Rehlen has for uncommitted parking spots back there.

J. Rehlan states he thinks there are about 20 parking spots back in "long block". The parking goes back to the school.

J. Biasuzzi replied that the off street parking may have 20 parking spots but some of them are committed to the long block. There are not 20 spaces available for parking. There have been instances where the Town of Castleton has at least considered parking on RT. 4A.

B. Day asked J. Rehlen if he owned the right of way.

J. Rehlen states that he owns the land and Ellis has the right of way.

B. Day asked if that right of way would ever be blocked so Ellis could not get through. It will be used by the customers as a way to get into and out of the parking spots.

B. Day stated that J. Rehlen has been using the parking area beyond his property for years, but J. Rehlan does not have anything in writing from the land owner.

V. Waldron asked about the 75 seating capacity.

J. Rehlen noted that there will be no increase in seating, seasonally they will diminish the indoor seating and move seating to the deck.

J. Biasuzzi asked J. Rehlen with the renovations how many seats you have in the facility.

PAGE 4 - DEVELOPMENT REVIEW MEETING MINUTES OF APRIL 17, 2018

J. Rehlen replied that counted 78.

B. Longtin handed the members a copy of the facts and findings from permit # 7790, Appeal #434. He asked the Board to confirm that J. Rehlen's property is non-conforming.

B. Day replied it is indeed non-conforming.

B. Longtin addressed the Board that the permit in front of you also shows a pervious permit with a comment that they enlarged the porch to incorporate into a dining room. He noted Sec 709, A (5) and stated that the Board had applied that to his permit last month and denied it based on the fact that the Board had already approved a previous permit.

B. Longtin stated that the ordinances need to be enforced equally.

B. Longtin continued that he was told not to waste his money to come in to apply for a permit and here we are, Mr. Rehlan has a permit application and a site review.

G. Chader replied that the question is how you interrupt the open deck. There may not be restrictions on an open deck.

J. Biasuzzi read the Board the definition of a structure and it does include "decks", the Rehlan permit being a structure and attached to the existing building, B. Longtin may have a good point.

V. Waldron asked if this meant that all businesses along Rte 4 could use public parking to fulfill their parking requirements.

B. Day and J. Biasuzzi both replied yes, that business' already do that, i.e.; library and church etc.

MOTION: G. Chader made a motion to close the hearing. Seconded by D. Wood. All in favor. Motion Carried.

LISA BEROUD, (AGENT: ZOLTAN HORVATH) 2445 RTE 30 N, CASTLETON- REQUEST FOR RELOCATION, EXPANSION AND CHANGE OF USE OF THE NON-CONFORMING STRUCTURE OF A FORMER CHURCH TO A SINGLE FAMILY RESIDENCE AND GARAGE WITH LIVING SPACE.

B. Day swore Z. Horvath, Agent, L. Beroud attended via telephone and interested parties.

J. Biasuzzi informed the Board that the plan was to pick up the Church, put in a foundation and rotate church and place on new foundation.

Z. Horvath approached the Board with the plans, which show current and proposed setbacks.

PAGE 5 - DEVELOPMENT REVIEW BOARD MEETING OF APRIL 17, 2018

The driveway will be moved to the side/back of the new building.

D.Wood asked about the curb cut for the new driveway.

Z. Horvath stated that he had received a permit from VTRANS for the new curb cut. There is no opposition from any neighbors or the owners of the Golf Course, they are having their attorneys review the easement language. There are applications in process for WW and 3 applications for town sewer.

G. Chader addressed the height of the building, which is going to be 48 ft. The current height restriction is 38 ft.

Z. Horvath explained that due to the ground conditions under the building, the only way to stabilize the building is to build down 10 ft into the ground and create a walk out basement with a garage and utility room. The actual height of the building is not changing. There is no increase in the footprint of the building. It is just being turned in a different direction. The grade of the ground is not being altered.

G. Chader reviewed that the height from the basement floor to the first floor is 10 ft and the height from the 1st floor to the ridge line is 38ft.

Z. Horvath stated in the height, not changing the grade or the ridge line not more than 2 ft. The foundation is driving the height issue. He addressed Sec. 709, bottom of Page 37, Section B. The Board has the ability to approve a basement or basement walk out. There will be a walk out basement.

G. Chader stated it would make it a "more" non-conforming building.

Z. Horvath noted that the Church will be raised it up about a couple feet, turn it and build the foundation underneath it. It may be shimmed another 6 -12 inches to give me the 3 feet, I want to keep it as close to the ground as possible, it will all be driven by the soil pipes and what my structural engineer going to tell me.

J. Biasuzzi stated that the Board is use to dealing with Sec. 709 with horizontal exception, this is the first time seeing a vertical exception.

Z. Horvath noted that they were doing what they feel is the best solution for all the issues they are dealing with, wetlands, buffers, soil issues, and setbacks. The applicant can increase the footprint up to 50% more, but why would you want to put a garage and block this beautiful building. This also does not solve the foundation issue with exposed concrete.

PAGE 6 - DEVELOPMENT REVIEW BOARD MEETING OF APRIL 17, 2018

D. Wood noted that the height of the building was not changing but where you were measuring from comes into play with the definition that the Town uses.

J. Biasuzzi said he would play devils advocate and stated that the board could look at a “variance”, if you look at the grounds for variance, the application has not specifically requested a variance, may also look at a variance as an option to address the issue of height. Because as the Engineer alluded to, the reason for the height is structurally related to the soil and the unique site conditions that are pushing this height related issue.

G. Chader asked J. Biasuzzi what the connection was on the variance.

J. Biasuzzi replied that if you go thru the 5 criteria required for a variance, you need physical circumstances, can’t move wetlands, can do very little with the site without getting into other issues. The soil instabilities fill criteria #2. The applicant has not created the hardships. This project improves the neighborhood.

MOTION: D. Wood made a motion to close the hearing. Seconded by G. Chader. All in favor. Motion Carried.

MOTION: G. Chader made a motion to go into Deliberative Session. Seconded by D. Wood. All in favor. Motion Carried.

MOTION: D. Wood made a motion to come out of Deliberative Session. Seconded by G. Chader.

MOTION: D. Wood made a motion to approve the minutes of March 20, 2018 with corrections. Seconded by G. Chader. All in favor. Motion Carried.

Corrections: pg 3- delete symbols- add- “Second on the motion to adjourn”.
Page 2- line 9- delete- “convert the”.

MOTION: G. Chader made a motion to go into Deliberative Session. Seconded by D. Wood. All in favor. Motion Carried.

MOTION: D. Wood made a motion to come out of Deliberative Session. Seconded by G. Chader. All in favor. Motion Carried.

MOTION: G. Chader made a motion to deny Permit # 7982 based on Sec. 709 A(5). Seconded by D. Wood. All in favor. Motion Carried.

J. Biasuzzi asked if they were out of Deliberative Session.

PAGE 7 - DEVELOPMENT REVIEW BOARD MEETING MINUTES OF APRIL 17, 2018

MOTION: D. Wood made a motion to deny permit # 7983 based on Section 709 & Article 5, height regulation. Seconded by G. Chader. All in favor. Motion Carried.

MOTION: G. Chader made a motion to authorize the Z. A. to draft each of these denials for Board consideration and ultimate approval. Seconded by D. Wood. All in favor. Motion Carried.

The next DRB meeting will be May 15, 2018 at 7:00pm.

MOTION: G. Chader made a motion to adjourn. Seconded by D. Wood. All in favor. Motion Carried.

Respectfully

Date of Approval

V. Waldron