

TOWN OF CASTLETON
Special DEVELOPMENT REVIEW BOARD MEETING
MINUTES OF July 7, 2016
TOWN OFFICES

MEMBERS PRESENT: R. Day, G. Chader, J. Mark, D.K. Israel

MEMBER(S) ABSENT:

OTHERS PRESENT: J. Biasuzzi, Zoning Administrator, refer to attendance list.

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

ORGANIZATION OF BOARD OFFICERS

J. Mark nominated Bob Day as Chairman. G. Chader seconded. All in favor. Motion carries.

RESOLUTION OF MEETING DAY AND TIME

The board discussed the meeting day & time and agreed they will meet on the first and third Tuesday of the month.

New Business - Appeal of Notice of Violation

Dakota & Trenton Harvey, Float Bridge Road, Castleton - Conducting a wood manufacturing business in a Residential District.

All parties intending to give testimony were sworn in by R. Day.

J. Biasuzzi gave a brief explanation of the property location and size. Neighbors complained that this was a wood manufacturing business in an area that is zoned R-40 (Residential 40,000). J. Biasuzzi presented several Exhibits for review (see attached):

Exhibit A1 - Article 3 of the Zoning Ordinance - forestry and agricultural activities are permitted use, but lumber yards, manufacturing, light manufacturing & wood manufacturing are not identified on the chart.

Exhibit A2 - Section 204(h) states any use not permitted by these regulations shall be deemed prohibited.

Exhibit A3 - Section 1105-Enforcement the Administrative Officer shall enforce the regulations...in conformity with 24 VSA Ch. 117 §4451 & 4452...

Exhibit B1 - Definitions that come from several areas, i.e., Hartland CT zoning, Webster's 3rd New International Dictionary.

Exhibit B2 - Stephanie Smith is the Chief Policy Enforcement Officer, Vt. Dept. of Agriculture. She gave her opinion based on activities on property. This document is dated January 26, 2016.

Exhibit B3 - House Bill 857 is a forestry bill and it mirrors Ms. Smith's opinion. In the forestry bill a forestry operation includes the primary processing of forest products for commercial value on

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a parcel where the timber harvest occurred.

Exhibit C1 - Vt. Environmental Court Decision - Martin v. Town of Shrewsbury. A Shrewsbury logger had a free standing property where he had his logging business in a Rural Residential zoning district. He set up a firewood processing operation, bringing logs from other property and processing it and loading it and delivering it. The court found that it was neither agriculture nor forestry.

Exhibit C2 - Vt. Supreme Court Decision - Moore Accessory Structure & Use. There was a working farm. The court found that wood processed from timber harvested on the farm that was used for repair etc. on the farm were practices associated with farming.

Exhibit C3 - Vt. Supreme Court - Charlotte Farm & Mills. The permit they had to engage in agriculture & forestry did not authorize the operation of a portable sawmill or process logs and other materials brought in from other locations.

Exhibit D1 - Letter from William & Maisie Wood, abutting property owners, excerpts were read for the record (attached).

Exhibit D2 - Letter from Trevor & Jennifer Tebbs, abutting property owners, excerpts were read for the record (attached).

J. Biasuzzi stated that due to the research, court precedence and definitions presented, he did not feel that wood processing and distributing it for sale meets neither agriculture or forestry definitions from the state or Town of Castleton and is not a permitted use.

J. Bruno stated that there were many property owners in town that get logs delivered and cut it into fire wood and sell it.

C. Brown stated that the property on both sides of the road was a farm. The former owners (Pitaniello's) brought in wood and cut it up and sold it for years.

T. Boutwell stated that he delivers logs to 5+ properties in Town who cut and sell for profit.

G. Trudo stated on Page 13 of the Zoning Ordinance, Table of Uses, Agriculture is permitted in all areas and on page 46 definitions under Agricultural Use it says forestry & forest products are listed. He also referenced the state statute Title 12, Section 5752.

J. Burke, Agent for Harvey's, stated he had received copies of the letters from the neighbors. In Mr. Woods' letter he refers to what AAP would require, since Mr. Harvey is not applying for anything through the Dept. of Agriculture so the relevance is pretty limited. He continued stating that Mr. Tebbs talks about a cottage industry. Mr. Harvey had planned to make this a cottage industry by building his home on the site, but was unable to get a perk test or a wastewater permit.

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Continuing, J. Burke stated that the Notice of Violation was ambiguous and incorrect and so the violation should be set aside. The notice states that he has accepted "deliveries of log length material to the premises that will be cut, split reloaded and then delivered and resold off premises is considered to be wood manufacturing". Our argument is that it is not wood manufacturing. In the Zoning Ordinance, on page 52, manufacturing is described as fabrication. Mr. Burke asked D. Harvey several questions. #1 - in the 3 years approximately how many cords of wood has been produced on this property in total. D. Harvey responded about 170 cords, #2 - how long per cord is the chain saw running, he responded ½ hour per cord & splitting is quieter. Mr. Burke summarized that in the 3 years there is a total of about 300 hour.

Mr. Burke asked that the board grant his appeal, set the notice of violation aside. He continued stating that we should encourage our young people to stay and work here.

MOTION: J. Mark motioned to close the Public Hearing. G. Chader seconded. All in favor. Motion carries.

R. Day advised the appellants that the DRB has 45 days to render its decision.

Minutes for approval - April 21, 2016

MOTION: J. Mark motioned to approve the minutes of April 21, 2016. R. Day seconded. All in favor. Motion carries.

Other Business/Correspondence -

J. Biasuzzi asked the board for their opinion on a proposal from a Little Rutland Rd property owners request to repair an old pier foundation under their house by replacing it with a concrete foundation/piers & floor on the existing footprint.

The board decided that it was strictly a repair and no permit is necessary.

Deliberative Session

MOTION: J. Mark motioned to enter Deliberative Session. G. Chader seconded. All in favor. Motion carries.

MOTION: J. Mark motioned to exit Deliberative Session. G. Chader seconded. All in favor. Motion carries.

The Zoning Administrator was asked to seek a legal opinion on the Harvey NOV issue.

Adjourn

MOTION: K. Israel motioned to adjourn at 8:50 pm. J. Mark seconded. All in favor. Motion carries.

Respectfully,

J. Potter

Date of Approval