

Permit # 13-25 Austin
Permit # 13-28 State of Vermont (Rt. 2)
Permit # 13-34 Bolduc
Permit # 99-58 Griffin (Amendment)
Permit # 13-35 Hallihan

~~MEET~~ Approved

Minutes of the September 26, 2013 Zoning Board of Adjustment Meeting

Present:

Charles Merriman, Charlene Bohl, Dennis Nealon, Roger Hirt, Doug Lombard, Cindy Carlson, John Krezinski, David Burley, Victoria Hallihan, Forest Twombly, James and Kim Bolduc, Griffins, Jennifer Evans

Meeting is called to order at 6:00 pm

The Board discusses the Austin request for a setback variance for the construction of a new garage. Charlie reports that Mr. Austin feels the 45-day limit has been exceeded and the permit should be issued. Charlie feels the Board should move forward and make a decision. Dennis has inspected the Austin site, but other members have not.

The Board discusses their authority under the waiver provisions in Section 4.6, (A) (2) the Board can transfer the variance into a conditional use permit and use Section 5.5.

Motion: Charlie moves to treat the Austin application as a conditional use permit under Section 4.6. Charlene seconds, motion carries.

The general standards for conditional use analysis for this permit is reviewed.

1. The Board agrees the proposed structure will not affect the existing or planned community facilities and services.
2. The Board agrees that the proposed structure will not adversely affect the adjacent properties, neighborhood or the town road.
3. The Board agrees that the project confirms to the Town Plan and the Zoning Regulations in affect.

Motion: Dennis moves approval of the Austin zoning permit. Doug seconds, motion carries.

David Burley, State of Vermont

David presents the Board with a proposed landscaping plan for the Mental Health Facility located on Route 2. The Board requested the State submit a landscaping plan to help screen the fencing at the facility. The Board reviews and approves the proposed plan to place trees between Route 2 and the fencing in front of the facility.

Charlie swears in those in attendance and explains the process for the meeting.

Jamie & Kim Bolduc request the Board consider a variance for setbacks which would allow a mobile home to be placed on a newly acquired property. The property that was on the property was burned by the fire department and 50,000 tons of debris was removed from the property. The original dwelling was a house and they would like to replace it with a house trailer. Due to the small footprint of the property, they cannot place the house trailer within the setback requirements for the zoning district. The property has both septic and water systems in place.

The Board discusses and agrees to review this permit under Section 4.5 and considering it as a conditional use permit under Section 5.5.

The general standards for conditional use analysis for this permit.

1. The Board agrees the proposed structure will not affect the existing or planned community facilities and services.
2. The Board agrees that the proposed structure will not adversely affect the adjacent properties, neighborhood or the town road.
3. The Board agrees that the project conforms to the Town Plan and the Zoning Regulations in affect.

Motion: Roger moves to approve the permit for James & Kim Bolduc, Doug seconds, motion carries.

Jean and Griffin

The Griffiths applied and received a variance for setback to construct a garden shed in 1999. The shed was built and placed as allowed by the permit. The Griffiths have now determined that their property line was not where they thought it was at the time the permit was received. They have determined that a corner of the shed is on their neighbor's property. The Griffiths are asking for a set back variance to move the shed. The Griffiths have had their property resurveyed and are confident they now know where their property lines are and they have been properly marked. A corrected Mylar will be recorded with the Town of Middlesex

Motion: Charlie moves to approve the moving of the shed to no closer than 4' to the back property line conditioned upon filing a corrected survey in the Middlesex Land Records with notation that the original survey was not correct. Dennis seconds, motion carries.

Victoria Hallihan, Forest Twombly

Victoria has filed a zoning permit to replace a mobile home that was destroyed during Tropical Storm Irene in August of 2011. The mobile home was placed on the property without a zoning permit and the Town has issued a notice of violation. The property is in the "Flood Way" and is subject to review under Section 5.6 of the Middlesex Zoning Regulations.

Forest Twombly testifies that he works with Central Vermont Community Action Council and has been helping Victoria develop a plan to bring her mobile home into compliance with the Town's zoning regulations. He feels that the Town can consider this permit under section 3.8, Non-Complying & Nonconforming Uses. Under (B) Non-Complying Structures (2) states a building may be restored or re-constructed after damage for fire or other catastrophe, provided that the reconstruction does not increase the degree of non-compliance which existed prior to the damage and that the reconstruction occur within two years of such damage. Forest states a mobile home is different and that they cannot be rebuilt when damaged like a stick built home.

Engineering firms have been consulted and a plan is in the process of being finalized. The State of Vermont Flood has agreed that an elevated foundation can be built within the flood way to meet the FEMA National Flood Regulations Act. They are still working through the process to protect water and power lines.

John Krezinski asks if the original mobile home was permitted. Victoria states that the former zoning administrator never advised her that she had to apply for a zoning permit.

The Board discusses permitted development and prohibited development in the special flood hazard area. The Board cannot be discriminatory in reviewing mobile homes.

The Board discusses if the application is a prohibited use under section 5.6 (3) or if it is a conditional use under Section 5.6 (4). The Board has to determine if the existing mobile home is a new structure or a substantial improvement, elevation, relocation or flood proofing of an existing structure. The Town's attorney has reviewed the file and recommends considering the application as a conditional use review.

Jennifer Evens states that she is concerned that the mobile home not be moved any closer to the road. Jennifer does not want any construction to block the road.

The Board goes into deliberation. The Board discusses the definition of "structure" and that the replacement of a mobile home with a new mobile home constitutes reconstruction of an existing structure. The Town's attorney presupposes that it is an existing structure. The Board discusses that the event leading to the replacement of the mobile home is an act of nature and the mobile home was totaled. The Board agrees that the application should be considered as a conditional use and conditions should be set to require prior FEMA approval of the plan prior to construction.

Motion: Charlie moves to approve the Hallihan application be approved under Section 5.6 with the following conditions: 1. The mobile home will not be placed any closer to the road that it currently is. 2. Within 45 days (November 11, 2013)

the applicant receive State of Vermont approval of an elevation plat that allows the Town of Middlesex to be in compliance with the National Flood Hazard Protection Act for flood insurance purposes and that this State of Vermont approval be submitted to the Zoning Administrator. 3 Within 60 days (January 30, 2014) of receiving State of Vermont approval construction be completed. 4. Within 20 days (January 30, 2014) of completion of the project a letter be issued by a certified licensed engineer confirming that the construction was completed in compliance with the State of Vermont approved elevation plan and that this letter be submitted to the Zoning Administrator. Roger seconds, motion carries. One oppose 4 approve.

Meeting adjourns at 8:25 pm.

Respectfully submitted,

Cindy Carlson, Zoning Administrator

Approved by The Board at its meeting on November 11, 2013
Charles Munn