

Danville Zoning Board of Adjustment
April 11, 2017
7:30 pm

Members present: Chris, Curt, Tara, John, Roger D.

Others present: Keri Roman-Drummond Woodsum, Carol Baird, Brenda Whitehouse, Roger Whitehouse, Edward Delrorey, Cale Houston, Walter Baird, Dave Knight, Brendan Ryan, Kevin Hatch

Minutes:

Curt made and John seconded a **motion to accept the February 28, 2017 minutes as written.** Chris abstained. The motion **passed.**

Gerry Drive special exception:

Chris explained that this property was previous approved for an accessory dwelling unit to be 700 square feet in size. State law has changed and the town's zoning ordinance has since been amended to allow up to 750 square feet for accessory dwelling units. Brendan Ryan has amended his building permit application to accommodate the increased size. The building inspector, Ed Morrison, is aware of the recent changes and this meeting was simply to see if the Board members thought the homeowners needed to formally discuss the change and seek an additional special exception approval.

Mr. Ryan said that nothing else about the application has changed. The building inspector has the new plans and has approved them pending approval by this Board. Mr. Ryan was advised to speak with Ed and see if he thinks a new ZBA approval is required. If Ed will accept the plans as redrawn, then he does not need further approval from this Board. Curt advised Mr. Ryan to seek legal advice if he has any questions.

Meeting House Subdivision request for rehearing:

Chris excused himself from the table and sat with the audience.

John was designated a voting member for this discussion and Curt briefly described the history of this application and the discussions with this Board. This Board voted on January 24, 2017 to rehear the appeal. These discussions took place on February 21 and 28.

He said the Board needed to decide if an error was made or if new information has been presented. He explained the appeal must be filed within 30 days of the decision and said that some of the allegations in the appeal from Sumner Kalman are about the decision made on January 24, 2017 and some are about the hearings held on February 21 and 28. The appeal is dated March 15, received on March 16. That is within the 30 days of the hearing of the deliberation but not within the 30 days of the decision to have the hearing. He said it appeared the meeting itself is being objected to.

The Board discussed the points from the appeal dated March 15, 2017:

1. Agreed

2. Agreed
3. Agreed
4. This may have been a typographical error as the discussion is regarding a subdivision and not a site plan review.
5. Agreed but it is irrelevant.
6. Agreed
7. Agreed
8. This also states a site plan when it was a subdivision that was discussed with the Planning Board.
9. This objection is untimely. The date agreed upon that the application for appeal would be accepted is January 24, 2017.
10. Untimely
11. Agreed
12. Agreed
13. This coincides with #14 below.
14. This and #13 above are true in that the original question was that the boundary was the issue. But upon more hearings, additional issues were brought to this Board and a vote was taken on January 24, 2017 to accept those other issues and discuss them. The allegation made in this and #13 are again untimely because the issues were not brought up within 30 days.
15. Mr. Kalman is restating what was said by Bernie Pelech: the original question regarding a boundary line could not be appealed.
16. These were all decided on January 24, 2017.
17. This is true, but was superseded by subsequent events. Everything listed in 13-16 above were reviewed and it was agreed that a border dispute was not a zoning issue.
18. Agreed
19. Agreed
20. Agreed
21. Curt agreed and said his statement was based on legal advice and he said he does not need to change what he said earlier.
22. This is untimely.
23. Untimely
24. Agreed
25. Untimely
26. Untimely
27. Curt wrote this and agreed that he wrote this.
28. The statement here does not necessarily mean the Zoning Ordinance was not followed. This information was available at the time of the hearing and it could have been considered.
29. Mr. Kalman is saying that there is no zoning issue involved, but this Board has agreed that there is, specifically that the Planning Board should have formally involved the Heritage Commission during the hearing process.
30. This is in four parts:
 - a. This objection is untimely.
 - b. This is basically incorrect.
 - c. This is untimely as the motion was considered on January 24, 2017.

- d. Our finding that the Planning Board failed to consult with the Heritage Commission is incorrect. There was a formal invitation and discussion with the Conservation Commission but not the Heritage Commission.

Curt asked if anyone on the Board thought an error was made on their part. All agreed that no error was made. Curt asked if any new evidence has been presented. All agreed that no new evidence has been presented. John made and Tara seconded a **motion to deny the motion for rehearing**. The motion **passed** unanimously.

The Board discussed the use of the word “reverse” in the prior motion rather than “remand” or “vacate.” Curt said that he had discussed this with Bernie Pelech who agreed that it didn’t matter which of those words were used in the motion. Roger W. said the Planning Board would like to know what their role is, if they have one, with any next steps to be taken. He stated the Planning Board has not spoken with Peter Loughlin regarding the hearings.

Other Business:

Chris rejoined the Board at the table.

Chris stated that this Board will need to have its annual meeting in which officers will be nominated. He suggested reviewing the Rules of Procedure for any adjustments of clarifications that can be made. He said one area is the issue of continuing a hearing. There have been applications left open because the applicant has failed to come back to the Board. Currently there is nothing in place that would allow the Board to deny the application for that reason.

The roles of alternates versus regular members should be clarified also. It was suggested that alternates may sit at the table and participate in the discussion up to the point the Board votes on a decision. At that point it will have to be clear who votes and who does not. Curt said that he discussed this with Mr. Pelech who said there is no exact rule for this.

Something regarding obtaining legal advice could also be added to the Rules of Procedure, specifically when it will be sought and by whom. Curt also suggested discussing the role of an ex-officio on the Board.

At 8:49pm Curt made and Roger D. seconded a **motion to adjourn**. The motion **passed** unanimously.