

Shutesbury ZBA Meeting Minutes
March 3, 2021 Virtual Meeting Platform

Zoning Board members present: Chuck DiMare/Chair, Jeff Lacy, and Andy Berg

Zoning Board alternates present: Herb Gilmore

Staff present: Tessa Dowling/Land Use Clerk

Guests: Donna MacNicol (Town Counsel), Meaghen and Steven Mikolajczuk, Karen Keegan, Attorney Jim Martin

DiMare calls the meeting to order at 7:00pm.

Statement relative to conducting virtual meetings following the Governor's restrictions on public meetings is read into the record by Dowling.

At 7:01pm, DiMare moves and Berg seconds a motion to table the 01.25.21 and 02.18.21 meeting minutes until the subsequent meeting. Roll call vote: Lacy: aye, Berg: aye, DiMare: aye; the motion carries.

Continued Decision Phase for the Mikolajczuk Special Permit (Case 20-002)

Lacy is recused from Case 20-002. Gilmore serves as the third member of the board for this Case.

DiMare confirms that Berg and Gilmore received a copy of the special permit decision for Case 2-002 at 32 Lake Dr.

Attorney Martin, the attorney for the project applications, drafted the decision. Berg screen shares it for the Board and Town Counsel to review line by line.

Small wording clarification edits were made to the Hearing Date and Request sections of the decision.

No edits were made to the Plans sections of the decision.

No edits were made to the first two decision findings.

Town Counsel points out an incongruity in the findings over whether the height change increases nonconformity. The finding needs to indicate that the increase in height does increase the nonconformity of the structure due to Bylaw 6.1-3, but the Board can find that the height increase is not substantially more detrimental to the neighborhood. Also per Town Counsel, it is important to note that 28ft is the allowed maximum height in the lake district.

The Board corrects the incongruity by changing the language of the main third and fourth decision finding to reflect Town Counsel's comments. Members also make small edits to the finding 4b regarding project objections, and approve finding 4a, 4c, 4d, and 4e.

The Board approves all of the five decision conditions.

DiMare asks the board if there are conditions to add, but hears none.

At 8:10pm, Gilmore moves and Berg seconds a motion to approve the Special Permit Decision for Case 20-002 as reviewed by the Zoning Board of Appeals. Roll call vote: Berg: aye, Gilmore: aye, DiMare: aye; the motion carries.

Per Town Counsel, the board needs to include the language of the bylaw and vote that the project is not substantially more detrimental to the neighborhood.

DiMare reads Zoning Bylaw section 6.1-3C.

At 8:14pm, Berg moves and Gilmore seconds a motion that the Zoning Board of Appeals finds that the Case 20-002 Special Permit project at 32 Lake Drive is not substantially detrimental to the neighborhood. Roll call vote: Berg: aye, Gilmore: aye, DiMare: aye; the motion carries.

The board member votes are added to the Decision and Berg stops screen sharing the document. Dowling will mail the decision to the applicants, Attorney Martin, and abutters the next day and the 20 day appeal period will start.

Education/Guidance

No one attended the meeting for education/guidance.

New Business

Per DiMare, Town Clerk has raised the concern that using personal email accounts for ZBA business can be an issue if the town is involved in litigation. DiMare would request town email accounts for ZBA members but would not recommend using Google to create a free separate email account for town business.

Town Counsel also recommends that members not use their personal account for town business. During litigation email accounts can be frozen and it is easier to find specific emails for public records requests when you have a separate account.

Old Business

No Old Business was discussed.

Schedule next ZBA Meeting/Site Inspections

There were no meetings or site inspections to schedule.

At 8:39pm, Berg moves and Gilmore seconds a motion to adjourn the meeting. Roll call vote: Berg: aye, Gilmore: aye, DiMare: aye; the motion carries.

Respectfully submitted,
Tessa Dowling
Land Use Clerk