

Town of Chesterfield, New Hampshire
Chesterfield Zoning Board of Adjustment (ZBA)
Meeting Minutes –February 16, 2023
Town Offices, Chesterfield, NH

CALL TO ORDER:

The meeting of the Chesterfield Zoning Board of Adjustment (ZBA) was called to order at 6:30 p.m. by Kristin McKeon. Members present: Kristin McKeon, John Zannotti, Nate LaChance, Joe Hanzalik, Deb Livernois, Alternate Joseph Brodbine, and Selectboard Representative Gary Winn. Also present was ZBA Secretary Jennifer Keating.

OTHERS PRESENT: Jim Phippard, Katie Sutherland, Mike Lacross, Jeff Titus, Cynthia Waters, Karen Titus, Bob Cummings, Jason Katz, Annie DiSilva (via Zoom), Peter Cooper-Ellis, Jon McKeon (via Zoom)

MINUTES:

The meeting Minutes of January 19, 2023, were considered. **Motion** was made by Hanzalik to approve the meeting minutes as amended. There was a second to the motion by Zannotti and no further discussion. All were in favor by roll call. ***Motion passed.***

PUBLIC HEARINGS

Public Hearing opened at 6:45pm

The Eden Foundation is requesting a variance from Chesterfield Building Ordinance, Section 1, Part 13.03, Height of New Buildings. The property is located on 18.06 acres at 30 Farr Road, Chesterfield (Tax Map 13, Lot A4.1) in the Residential District.

Jim Phippard presented the application for the Eden Foundation. He brought up the Building Ordinance and how it was related to the project. It is an art museum that they are proposing to build in Chesterfield. He showed a view of the building from the east, a glass wall structure that is 21' feet high. He explained that they are planning to build the building over the slope and cantilever a portion of the building over the slope. Phippard commented that it was difficult to apply the Building Ordinance because of the cantilevered building. The Building Inspector has been spoken with, but he was not comfortable making a ruling for the cantilevered building because the ordinance never contemplated a cantilevered building.

McKeon asked Phippard how he thinks that the cantilevered building should be measured. Phippard said that they are not trying to get around the ordinance, but they are trying to build something special where artists can be inspired. Phippard commented that maybe the building ordinance needs to be modified for this situation.

It is an 18-acre site off Farr Rd, Phippard explained. It is a flat site, until it reaches a steep slope that goes down to the river. It is an isolated location that is hard to view from Farr Road. It will remain wooded, Phippard said. The access road will stay in the same location, with parking spaces for the artists and nine visitors. The artist studios would be located in the part of the building on the land, with the gallery being in the cantilevered location. It would be open to the

public on a limited basis. A 40,000-gallon pool will be dual purpose, for swimming and fire purposes. If the studios are not occupied by artists, short term rental as an Airbnb will be offered.

Phippard noted that it would require site plan review in front of the Planning Board if the ZBA approved the variance.

McKeon asked if there was any wetland impact. Phippard said no. It will require a Shoreline Permit, however.

McKeon asked why the building had to be cantilevered. Phippard said that they were looking for dramatic effect. The projection toward the river stops 50 feet before the river.

Phippard showed the floor plans for the building plan and plans for building storage. Phippard said in speaking with past members of the Town Boards, he believes that the ordinance was created to make sure that the buildings can be safely serviced by the fire trucks in town.

McKeon asked how many feet the cantilevered portion would be in the air. Phippard answered that it was 71' to the top of the building.

McKeon asked the Board if they were familiar with the building code.

Brodline asked how having nine living quarters in the building would work with the zoning ordinance. Katie Sutherland, the architect from KCS Architects, stated that it was considered an accessory use. Sutherland commented that it was typical for many artist museums.

Zannotti asked if there were any other restrictions set from the Code Enforcement Officer. Zannotti feels as though this does not fit in the Residential District because housing is also being offered. He thinks that it seems a bit more like an inn and he has other concerns other than the height. McKeon reminded him that the height was the only concern tonight.

Mike Lacross, an abutter from Norcross Landing, stated that he feels that relating to the Ordinance, that the height is still being exceeded. He said that he is also concerned about the impact to the land during the construction. He said that there are already erosion concerns for him on this property and he thinks that the process of construction needs to address the erosion control. Sutherland said that in the feasibility study, the intent and the goal is to protect the watershed and the embankment, with no equipment on the slope or the bank. Phippard also pointed out that NHDES has jurisdiction on the slope and all of the erosion control measures will need to be addressed from 250' back from the slope. Jason Katz, the owner's rep, said that there will be no ground scaffolding, there will be hanging scaffolding that does not disrupt the shoreline.

Jeff Titus, of Snow Road, an abutter to the property said that he feels as though there is a fire protection issue. He stated that he is worried about a potential rescue in the event of an emergency. Titus said that Farr Road is essentially a single lane road and below that, it is essentially a hairpin turn. McKeon reminded him that this was only a hearing about the Height

Variance.

Cynthia Waters, of Snow Road, asked about when other concerns would be addressed. McKeon stated that there will be a Planning Board Public Hearing where those concerns would be able to be heard if the variance was approved.

Sutherland asked if Bob Cummings, the Life Safety advisor of Cummings and Associates, of Nashua, NH, could speak about the fire safety. He showed the exit doors and stated that the rooms were in the compliance area and meet the building code requirements. It would have a full sprinkler system and a fire alarm system.

Karen Titus, of Snow Road, asked about window washing and how this would fall in the Shoreline Protection. McKeon reminded her that it would be Planning Board question.

Katz said that this would be not a lodging, it would be an artist in residency structure. It would be an Airbnb that caters to an immersive experience he explained, not just an Airbnb.

Annie DiSilva, of Norcross Landing, asked if it was a commercial or residential zone (via Zoom). McKeon stated that Museums are allowed in the Residential District. She asked if it could be put on the mailing list for abutter notices, McKeon stated that unfortunately, she could not.

Livernois asked about Permitted Uses and how Museums are defined. McKeon reminded her that the only variance the ZBA is looking at is the height of the building.

Jon McKeon (on Zoom) asked what was unusual about the lot and why it would need to be done. Kristin McKeon stated that it has not been discussed yet and the variance criteria had not been looked at yet, only whether or not a variance was even needed at this time.

McKeon asked the board if they thought cantilevered was different than building on a slope. Zannotti said he understands that the cantilevered building makes it difficult to determine. He said that because the ordinance reads "from the foundation" he believes that the building meets the criteria. Hanzalik said that he agrees with Zannotti's interpretation. McKeon said that she believes that there still may be a safety issue. Brodbine said that he sees the logic in Zannotti's interpretation, but he thinks it could be an issue on other projects. Brodbine pointed out that the building ordinance showed that it measures from the foundation, not to the roof or the overhang. In reading the Ordinance, Livernois read that it states "where the highest point meets the structure." McKeon said that she understood where Zannotti is coming from, but she doesn't feel that it follows the spirit and the intent of the rule.

Lacross said that he interprets the building ordinance differently. Sutherland said that there is a lot of speculation on the intent of the ordinance, but she thinks that the intention behind the language is for a wood frame structure without a sprinkler, but this building would not be combustible and would have a fire suppression system.

Zannotti asked about the pitch of the roof. Phippard said it was flat roof, with an interior drain. Zannotti stated that Phippard may want to refer to the building ordinances.

Lacross asked where the building ordinance referred to the foundation, Brodbine stated that it was in the diagram. Livernois stated that it said, "where the highest natural ground level meets the structure."

Zannotti asked if there would be a way to table the discussion to get more knowledge as to what went into putting the building ordinance together. Hanzalik asked what the board would think if it was deck. Zannotti thinks that more information would be helpful, it was requested that the Secretary find the minutes from the development of the Building Ordinance.

Zannotti made the motion to continue the hearing at the March 16, 2023 meeting, when more information was provided. McKeon seconded the motion. No further discussion. Motion passed unanimously.

Phippard said that he would like to continue with the variance application whether or not they need the variance. Zannotti said that he felt that it was not appropriate because the meeting was already continued.

FOR DISCUSSION

Election of Officers

*Zannotti made the motion to nominate McKeon as the Chair. Hanzalik seconded the motion. and no further discussion. All were in favor by roll call. **Motion passed.***

*Zannotti made the motion to nominate Hanzalik as the Vice-Chair. McKeon seconded the motion. and no further discussion. All were in favor by roll call. **Motion passed.***

Updated Rules of Procedure

The board did the reading of the updated rules of procedure:

X. Public Notice

A. Public Notice of public hearings on each application shall be given on the Town Website and shall be posted in two (2) public places including the Chesterfield Town Office not less than five (5) days before the date fixed for the hearing.

*Livernois made the motion accept the changes in the Rules of Procedure. Zannotti seconded the motion. and no further discussion. All were in favor by roll call. **Motion passed.***

OTHER BUSINESS

Next Meeting: March 16, 2023

***Motion** to adjourn was made by Hanzalik. Zannotti was a second to the motion and no further discussion. All were in favor by roll call. **Motion passed.** Adjournment occurred at 8:13 pm.*

Respectfully Submitted,

Jennifer Keating
ZBA Secretary

Approved By:

Chair



Date 5/9/23