

Town of Shirley

Zoning Board of Appeals



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MINUTES
ZONING BOARD OF APPEALS
DECEMBER 7, 2015
2nd Floor, Land Use Conference Room

MEMBERS PRESENT: Chip Guercio (Chair), Lora Prescott (Vice Chair), Kevin Kelly, Joshua Bedarian, and Laurel Hayes

OTHERS PRESENT: Pat Wojtas (Interim Land Use Clerk), Lee Farrar, Rosemary Farrar

Mr. Guercio called the meeting to order at 7:00pm.

PUBLIC HEARING: 45 Benjamin Road
Owner & Applicant: Lee Farrar

Mr. Guercio opened the hearing for this application and read the Legal Notice for the Public Hearing.

Mr. Guercio read the responses received from other town boards and departments:

Tax Collector – taxes are current

Planning Board – no comment

Board of Health – no Board of Health issues

Sewer Department – this property is connected to sewer but the Sewer Commission has no concerns with this request

Conservation Commission – applicant has filed with the Conservation Commission

Zoning Officer – has no issues. It was noted that the Zoning Officer has filed a Disclosure of Appearance of Conflict of Interest, as he is related to the applicant.

Mr. Farrar explained that he required a Special Permit in order to construct a garage for his tractor. He presented photos showing the location for the garage. He currently has another accessory building on the property, and bylaws require the Special Permit for an additional building.

Ms. Prescott asked about the status of the application with the Conservation Commission. Mr. Farrar noted that the paperwork has been submitted; however they have not heard that they need to appear before the Commission for this project.

There being no members of the public in attendance, Mr. Guercio closed the public hearing at 7:08pm.

Voting: Mr. Kelly made a motion to grant the Special Permit as requested. Ms. Hayes seconded. The motion passes, 5-0.

VOTE: Confirm decision for J&A Realty variance request

At the previous ZBA meeting, the public hearing was closed for this petition. A motion was made for approval; however, it did not receive a second, so the motion failed, and the request denied. In order to formalize the vote, it was suggested to revote the decision. Mr. Guercio requested a roll-call vote on the original motion, which was to grant the variance. Ms. Hayes, Mr. Bedarian, and Mr. Guercio voted against the motion; Mr. Kelly voted in favor. The motion fails, 1-3.

NEW BUSINESS:

Mr. Guercio reported that abutters and concerned citizens have appealed a Planning Board decision regarding a proposed solar farm at 21 & 21 Rear Patterson Road. He noted that Town Counsel has advised the Board that they can hear an appeal related to the Site Plan Review issued for that project. However, the ZBA does not have authority to rule on the Special Permit.

It was decided to schedule a Public Hearing on January 4, 2016 to hear this appeal.

Ms. Prescott noted that the applicants are requesting the ZBA to void the Planning Board decision. Mr. Bedarian questioned whether the ZBA has that authority, and noted that the legality of the process should be determined by the courts, not the ZBA.

The Board requested that Town Counsel advise them on which aspects of the appeal fall under Site Plan Review. They also requested some guidance as to what actions they can take, such as voiding or overriding the Planning Board decision, remanding the issue back to the Planning Board, etc.

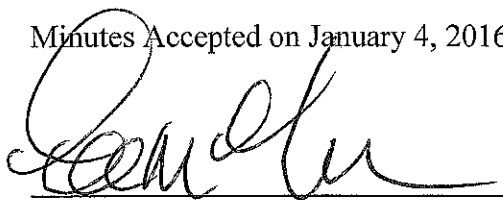
MINUTES:

Mr. Kelly made a motion to approve the minutes from the November 2, 2015 meeting. Ms. Hayes seconded the motion. The motion passed, 4-0, with Ms. Prescott abstaining.

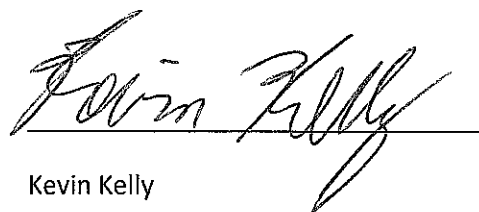
ADJOURNMENT:

Mr. Kelly made a motion to adjourn at 7:25pm. Seconded by Ms. Hayes. The motion passed, 5-0.

Minutes Accepted on January 4, 2016



Leonardo Guercio



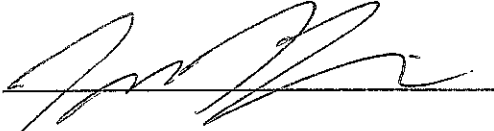
Kevin Kelly



Lora Prescott

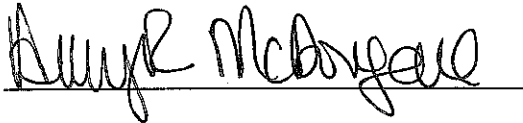


Laurel Hayes



Joshua Bedarian

Filed and received in the office of the Town Clerk:



Amy McDougall, Town Clerk



Date