

DORSET ZONING BOARD OF ADJUSTMENT

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Date: May 16, 2022
Applicant: Wilson House
Location: Dorset Town Offices
Request: ADA upgrades for a back door

Board Members Present: J. LaVecchia (Chairman), M. Merwin (she recused herself from the Red Tail Lane project), E. Tanenhaus, R. Stewart, T. Rawls (zoom), P. McGuire (zoom)

Those on Zoom: K. Wallace, PC member, Attorney for the town Jim Barlow, Attorney for Richard Rosenberg Steve Cassarino of Rutland, Lori Adler, (Rob: fill in from sign in page and zoom people)

Board Members Absent: K. O'Toole (recused himself),

Recused: K. O'Toole

Also, Present: Rob Giaotti, Town Manager; Chris Miller for the Sherriff's office. Joe Walker, abutting neighbor to the Red Tail project. Chris Cole and Berta Maginniss Wilson House. Ryan Downey, Surveyor, Chris Ponessi, for an applicant; Merrill Bent, Attorney for the neighbors, Gay Squire, PC member; S. Thompson, PC member, Chris Berard, PC Member, Natalie Quigley, and David McAmery.

J. LaVecchia, Chair, opened the meeting at 7:10. "We have multiple matters before us".

Introduction to the Wilson House site. Chris Cole - construction manager

- First issue: Permission to renovate the east entry to a guest room and replace it with an ADA ramp within the same footprint as the entry platform and steps.
- Take out steps and the deck that is there now.
- The eastern edge of the existing entry is approximately twelve feet from the stone wall.
- The second issue is a request for a variance for the front porch of the meeting room. We would like to add a portico which would infringe on the set back (30') by 3' as it will result in a 27' setback.
- The north entry to a meeting room is currently 27 ft set back from the road. We will put in an ADA parking space at the existing service drive area.

cc: Zoning Administrator, Town Manager, Planning Commission, Town Clerk, Applicant, File

- install a covered portico entry at this door as seen on plans A-101,102 dated 3/13/2022. We request a variance for this as we are twenty-seven' instead of the thirty' feet set back requirement.

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J. LaVecchia: this is a conditional use. In order to approve a conditional use, we have to look at whether or not it will adversely affect numerous conditions in the zoning by law. He listed several zoning bylaws.

- M. Merwin said this seems to be an improvement and meets those requirements.
- No other objections.

We shall vote on each issue separately.

R. Stewart moved we approve a conditional use for the north entrance of the building.

M. Merwin 2nd.

Unanimous approval.

Request for a variance:

Front yard set back

12.9 page 82 We can give it if make positive finding of following.

- Unique physical conditions and a hardship is created
- No possibility property can be used unless this is done
- No hardship made by appellant
- No change to neighborhood.
- Give the minimum variance afforded.

M. Merwin: seems like an improvement and it doesn't "trip" any of the mentioned issues.

R. Stewart: move we approve the request for a variance and in favor of granting the variance

M. Merwin 2nd

Unanimously approved.

Next case:

Applicant: Neighbors collectively Joe Walker, Lori Adler, Donald and Joe Wood represented by counsel Ms. Merrill Bent

Location: Dorset Town Offices for 0 Red Tail Lane

Request: Enforcement of violation of an unpermitted cabin and driveway

The lands of Richard Rosenberg, 0 Red Tail Lane Dorset are the topic of discussion tonight

M. Merwin has recused herself from the Red Tail Lane project

cc: Zoning Administrator, Town Manager, Planning Commission, Town Clerk, Applicant, File

J. LaVecchia the issue: counsel's request for violation of unpermitted cabin and driveway and construction of an unpermitted cabin.

M. Bent: "I represent the neighbors Joe Walker, Lori Adler, Donald Wood, and Joe Wood. We are here for cabin and driveway only. We withdrew one issue that was on appeal. We are here because of the denial of our request for a notification of violation because the cabin and the driveway are in violation of zoning bylaw.

- There was a new use of the property as a recreational camp which makes it a change of use.
- The cabin and driveway were constructed, so it is a change of use.
- Neither have a permit.

- Secondly, the land exceeds the 20% slope except for where it was excavated.
- R. Stewart: when was the driveway constructed? Answer: around 2013-2014 based on historical Google maps.
- C. Ponessi for the landowner: Charlie Mauro was previous owner of the property. In 2007 got a wastewater permit to build the driveway and constructed it in 2007. He did not build the cabin.
- New owner built cabin.
- The issue is the statute of limitation is 15 years. It is important to know when the driveway was built.
- Historical images from Google maps and lots of discussion on the maps.
- R. Downey: surveyor for neighbors.: some slopes less than 20% and some are more. They essentially carved in to make the road.
- R. Downey showed a slope analysis.
- M. Bent: it would be nice if the board could go up to the site.

- S. Cassarino, lawyer for Mr. Rosenberg: He also spoke to C. Mauro and Mr. Mauro told him the driveway was built in 2006
- Zoning bylaw 3.6.2 refers to construction only of new buildings not driveways. If it has been more that 16 years, the statute of limitations has run.
- M. Bent: referred to a different bylaw that states you can't do any construction on 20% slopes.
- R. Stewart: how relevant is all this? We don't have definitive proof.
 - Lots of discussion of what to do.
- R. Rosenberg: I have the material, a map that shows when the driveway was
 - S. Cassarino: Charlie Mauro will provide an affidavit as to the construction of the road.

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- 3.6.1 state driveways are included in the no build on 20%
- Dispute on the meaning of the bylaws.
- Discussion of precedent.

J. LaVecchia:

We are here to discuss the state of things now. Are they in violation of the zoning bylaws?

- Mr. Rosenberg spoke: I have a buyer who wants to own this property. There is a small area that is over 20%. I've been forced to engage counsel.
- Ryan: safety of police/fire/rescue will we be at risk.
- Rosenberg says waivers have been permitted.
- Lots of legal talk.

Jim Barlow, the town of Dorset attorney: Statute of limitation is 15 years. . When was the driveway built?

It is R. Rosenberg's burden to prove when driveway was constructed.

He suggested we continue the meeting so Mr. Rosenberg can find out when driveway was built. Allow him to provide proof. It can be maps or an affidavit from C. Mauro.

Suggestion: Recess the hearing to allow the opportunity to submit information. Neighbors have no objection.

J. LaVecchia: can we have a hearing all in person? It would be great for me if we could. We have had difficulty hearing those folks on zoom especially. Suggest we adjourn to the next meeting date.

Ruth: what about the cabin?

The owner is willing to move the cabin to a better location.

Rosenberg: no fines yet as you may determine that the stature of limitations has been met.

Steve Cassarino: allow us to submit a permit application essentially as a post construction permit. The ambiguous zoning regs are in favor of the property owner.

Mr. LaVecchia:

We will recess the hearing for one month.

We will not make a decision or finding at this point. We will simply reschedule the matter for one month. Hopefully, the zoning administrator will be available.

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Ed: Each of us can make a site visit each on our own. But we should be careful not to have more people so there is not a quorum of the board as that would be *ex parte*.

Mr. Walker: as an abutting neighbor I have a lawful right to participate in these proceedings. Lori Adler said the same thing. All four neighbors are in this together.

The applicant was informed that the following information is needed:

Date of driveway construction: I suggest you put together the most convincing information about the construction of the driveway. The more info provided the more convincing it will be.

It would be helpful if the information is submitted ahead of time and copy Ms. Bent so there is an opportunity to review.

June 20 is next meeting: Get the information to us by June 13, 2020.

We will carry over this meeting until June 20, 2022

Ruth so moved

Ed 2nd.

Unanimous approval.

Adjourned at 8:15

Respectfully Submitted,

Rebecca Nawrath
Secretary Pro-Tem