

Town of Dorset Zoning Board of Adjustment
Appeal by John Esposito of Decision by Zoning Administrator to
Issue Zoning Permit #053-2023BU

On Monday, January 15, 2024, the Dorset Zoning Board of Adjustment heard an appeal filed on December 20, 2023 by John Esposito of Zoning Administrator Tyler Yandow's October 19, 2023 decision to approve an application for a permitted use by Cameron Perham at 100 Benedict Road. For the reasons set forth below, the Board, by a vote of six in favor and one opposed, denies the appeal because it was filed after the statutory appeal period had expired.

Six of the seven members of the Zoning Board of Adjustment attended either in person or via Zoom, namely: Martha Merwin, Kevin O'Toole, Ruth Stewart, David Wilson, Ed Tanenhaus, and Chad Smith. Board member Bruce Ketcham was unable to attend the meeting.

Board Chairman Kevin O'Toole opened the meeting by stating that before addressing whether the permit application should have been approved, it must first decide whether the appeal was submitted after the statutory appeal period had expired.

Representing Cameron Perham, who was present, was attorney Ryan Miosek. The appellant, John Esposito, and Dorset Zoning Administrator Tyler Yandow also attended and spoke. Neither was represented by counsel at the hearing. Also speaking at the hearing were neighbors Penny Charbonneau, Clarke and Barbara Comollo, Amy MacDonald, and Caroline A. Dee. Town Clerk Sandy Pinsonault and the permittee's spouse, Adriene Perham, also spoke.

Upon motion made, seconded and passed, the Board then closed the meeting to further testimony. Then the Board determined as follows:

1. Zoning Permit #053-2023BU was issued to applicant Cameron Perham by Zoning Administrator Tyler Yandow on October 19, 2023. It was for a permitted use, namely, to remove an existing 60' x 40' structure and rebuild in its place a two-story rental home with one bedroom at 100 Benedict Road. That permit application stated that no additional bedrooms or bathrooms were being added. Because the application was for a permitted use, no hearing before the Planning Commission was required.
2. The Notice of Zoning Permit Approval provided to the applicant is a 8½' x 11" placard emblazoned with a large red "Z" that, among other things, states that "this notice shall be displayed on the building or site, visible from the public right of way, until after the "Appeal by" date has passed." Mr. Yandow's transmittal letter stated that the placard was to be posted "in a location visible from a public road for 15 days from the date of issue."
3. Applicant Cameron Perham stated that on or about October 19, 2023, he posted the Notice of Zoning Permit Approval on the northerly side of one of the two existing buildings on the site, facing Route 7A and to a lesser extent, Benedict Road. He produced an undated photograph that showed the posted Notice of Zoning Permit Approval from Route 7A.

4. Town Clerk Sandy Pinsonault stated that she first noticed the posted Notice of Zoning Permit Approval on November 24, 2023. Penny Charbonneau and Caroline Dee each stated that they first noticed the posted Notice of Zoning Permit Approval around Thanksgiving (November 23, 2023), when the second building was being demolished and work was commenced on the replacement structure. Appellant John Esposito said that he first noticed the placard a few weeks later, when the foundation was being poured on the new structure. Amy MacDonald first noticed the posted Notice of Zoning Permit Approval when walking her dog, but could not say exactly when that was. Clarke and Barbara Comollo said that they did not see the Notice of Zoning Permit Approval from their home, which is located at 117 Benedict Road but could not say whether it was visible from Route 7A.
5. Statements by Zoning Administrator Tyler Yandow and Town Clerk Sandy Pinsonault that copies of the Notice of Zoning Permit Approval also were posted at the East Dorset Post Office, Dorset Post Office and Dorset Town Clerk's Office were not challenged.
6. Although the Notice of Zoning Permit Approval stated on its face that the deadline for any appeal was November 3, 2023, Chair Kevin O'Toole relayed that Town Attorney Jim Barlow had informed him by telephone that the appeal period for a permitted use may be extended for fifteen days from the date the Notice of Zoning Permit Approval was posted at the site in a place visible from the public road. The site adjoins both Benedict Road and Route 7A.
7. The appeal was submitted by appellant John Esposito on December 20, 2023. This Board finds that the Notice of Zoning Permit Approval was posted at the site in a place visible from a public road, Route 7A, no later than November 24, 2023. Board member Ruth Stewart disagreed, expressing that in her opinion, the Notice of Zoning Permit Approval was not posted properly.

Accordingly, upon motion made by Martha Merwin and seconded by Chad Smith, the appeal is denied because it was filed after the statutory appeal period had expired.

Dated as of January 15, 2024

In favor:

Kevin M. O'Toole, Martha Merwin, Chad Smith, Ed Tanenhaus, David Wilson

Opposed:

Ruth Stewart

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