

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT MEETING MINUTES
FEBRUARY 3, 2022

Note: This meeting was held virtually only on Microsoft Teams.

ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT:

Acting Chair, Michael Plageman; Tom Yandow, Clerk; Justin St. James and Hubert Norton.

OTHERS PRESENT:

Sharon Kelley, Zoning Administrator; Chad Riley and Joe Bissonnette.

Acting Chair Plageman called the hearing to order at 6:04 p.m; noted that the meeting was being held virtually; noted ZBA members present; and provided the public oath.

AGENDA ITEM 1: CONDITIONAL USE: Joseph Bissonette & Chad Riley: Proposal for continued operation of a food truck located at 217 Sand Hill Road in the Medium Density Residential (R2) district. Tax Map 50, Parcel 42.

Board Member Plageman MOVED and Board Member Norton SECONDED a MOTION to open the Fact Finding/Public Hearing. The MOTION passed 5-0.

Sharon Kelley, Zoning Administrator, informed the ZBA that the original conditional use approval granted by them had a condition that required the applicant to return to the ZBA for further review. This was to monitor the activity and/or incidents on the site or near the intersection. Kelley informed the ZBA that she reached out to the Police Chief Hogue, who advised her that only one call was made near the area, and it involved a house a bit further down Sand Hill Road. Kelley referred to Lines ___ of the Staff Report and suggested the ZBA further discuss the possibility of changing the times of operation by extending through the end of October each year.

Joe Bissonnette, landowner thanked the ZBA for the opportunity and stated the operations have been successful and without incident.

Chad Riley noted that his focus is with working with the kids and that parents are happy for what he is doing at his site and at the park next door. He thanked the Board for allowing them to continue to operate the business.

Sharon Kelley suggested that the new timeline be from May thru October. After discussions with the ZBA, it was determined to change the timeline from April thru October. The landowner and applicant were agreeable to this and thanked the ZBA for the opportunity to operate during these additional months should the weather cooperate. However, Chad Riley did not believe he would be opening in April and noted it would allow him to bring in the food truck and set up.

Acting Chair Plageman noted that there was no public present for this application.

Board Member Norton MOVED and Board Member St. James SECONDED a MOTION to close the Fact Finding/Public Hearing. The MOTION passed 4-0.

Board Member St. James MOVED and Board Member Norton SECONDED a MOTION to approve the application for the continued operation of a food truck located at 217 Sand Hill Road, Essex, Vermont, subject to the following Findings and Conditions:

FINDINGS:

1. The applicant is Chad Riley d/b/a Sparky's Barbeque, LLC.
2. The landowner is Joseph Bissonette.
3. The parcel is located at 217 Sand Hill Road in the Medium Density Residential (R2) Zoning District. The parcel is located on the corner of Route 15 and Sand Hill Road. The existing single-family house was recently removed from the premises. Residential dwellings surround this parcel to the north and west, however two pre-existing grandfathered uses are also located in the R2 zone, as follows: a gas station/convenience store to the east, and Sand Hill Recreation Park to the south.
4. The proposal is to set up a temporary tow-behind trailer that has a full kitchen, including preparing, cooking, and washing stations. The trailer is proposed to be situated on the southeast portion of the parcel. The proposal includes a paved graveled lot where the house was situated which would accommodate 8 parking standard spaces and 4 handicap spaces. The parcel will be accessed from Sandhill Road. Five (5) picnic tables will be provided for the public. Waste bins will be placed near the trailer and eating area. A fenced in area is proposed to serve as a housing area for garbage, propane tank, water and wastewater containers; scheduled pickups for removal shall occur 1x/week by a certified company. Existing power on the site will be relocated to an area where the trailer will be parked. The operation will run from April 1st thru October 21st, 5-days a week, Wednesday – Sunday, 11:00 a.m. to 8:00 p.m., and including closing from 2:00 p.m to 4:00 p.m, at the applicant's discretion. The trailer will be removed from site during the winter months. The picnic tables and electrical power meter will be kept within the fenced in area.
5. The applicant submitted the following plan for reference: "Proposed Layout for Snack Bar Trailer 217 Sandhill Road Essex Jct., VT 05452" dated May 22, 2020. The plan does not show the setback distances from the property lines.
6. The application is being reviewed by the Zoning Board of Adjustment under Sections 4.15(B)(3)-Temporary Uses and 5.7-Conditional Use. This application will also require Planning Commission approval.
7. Pursuant to state statute a 'Notice of Hearing' was provided to the applicant for posting on the property.
8. The abutting property owners were notified of this meeting by certified mail.
9. The applicant and landowner were mailed a copy of this Staff Report prior to the meeting.
10. Chad Riley and Joseph Bissonette provided comments on this application. No one from the public was present.
11. The number of employees is not yet locked in. The applicant, and his wife, and possibly 4 others is suggested at this time, however only 3 employees will be working in the trailer at a time.

12. Parking: Table 3.3 of the Zoning Regulations require 2.3 spaces per a single-family dwelling unit. The existing house was recently removed from the premises, therefore zero spaces for this use are proposed.
- Using 'Restaurant' for the Food Trailer, the following spaces are required:
- 1 space for food truck (184SF)
 - 1 space for each 4 outside seats (5 picnic tables proposed)
 - 6 spaces required
 - 12 Spaces Provided
13. The cooking is done by gas and the trailer is run by electricity.
14. No lighting is proposed with this temporary use as it will only be operating during daytime hours.
15. In an email dated 5/29/2020, the Fire Chief said,
So long as they have all necessary permits and State FM approvals, we're good.
16. In email from Captain Ron Hoague, he said,
Only comment from the Police would be that they work with Champlain Farms ahead of time to address any parking issues that are sure to arise with them only having 8 spaces and an entrance from Sandhill.
- Captain Ron Hogue provided additional comments in an email dated 6/4/2020, as follows:
From 06/1/15 to now there have been 12 reported crashes at Sandhill and Rt 15. I don't believe this location would be much more of an issue for traffic as it seems this is all outside seating so it will be limited numbers. My original concern was people parking on Champlain Farms property and then having us get parking complaints. I assume they have worked that out.
17. In an email dated 4/20/2020, Randy Snelling, Agency of Transportation said,
Thank you for reaching out to us regarding the proposed food trailer access located on Sand Hill Rd. After further Right-of-way research and review of the plan proposal, VTran's does not have jurisdiction for the proposed location of the access off Sand Hill Rd., nor requiring an S-1111 permit from VTran's, this jurisdiction will fall within the Town of Essex.
- Please also keep in mind though, since this property does abut VT 15, which is a State of Vermont Jurisdictional Highway, no advertising signs are allowed within the State Highway Right-of-way, and have to follow the local zoning ordinances, and/or the Vermont Sign Law, whichever is more stringent. This email should address any concerns the Town should have concerning notifying VTrans.*
18. The Zoning Administrator was informed by the Agency of Transportation that bids for the reconstructed intersection will go out in 2022, and construction could possibly start in 2022.

19. In a Memo dated 5/26/2020, Public Work's provided the following comments:

The Applicant has proposed changes and improvements to the residential lot located at 217 Sand Hill Road to accommodate a seasonal food truck business.

The Applicant has submitted a revised site plan showing the lot changes, once the existing home has been torn down, to include a reduced curb cut, 15 feet in width at the Sand Hill Road ROW (Right-of-Way), to accommodate a paved apron and parking area.

The site plan includes approximate property lines based on tax map information which have not been confirmed in the field by survey or monument location. However, if the property lines shown are correct, the location of the curb cut is acceptable with the changes noted below. The Applicant states in the narrative that the turning lane for the future intersection configuration will not be impeded by the location of the proposed curb cut. This appears to be the case but has not been confirmed in the proposal.

Public Works has requested that the apron of the curb cut be paved to reduce tracking onto Sand Hill Road. The Applicant proposes paving the entire parking area and apron, which is acceptable. Based on the dimensions shown, the parking area appears to accommodate six, 9 ft. by 18 ft. parking spaces. The parking lot spaces are to be line striped using standard dimensions and turning movements. The applicant may have to add a back in turn out on the northwest corner of the parking lot to provide proper turning movements.

Prior to construction, Public Works will require confirmation of the property corner at the ROW and the southernmost property line of the lot in order place the curb cut as far south as possible to avoid the future VT Rt 15 right hand turning lane. The offset from the property corner to the curb cut is currently shown as 10 feet on the site plan. This dimension should be reduced to the minimum offset required which is 6 feet to provide as much room as possible for the future turning lane. If confirmation of the property corner shows that the corner is substantially different than shown, Public Works is to be notified and the Project will need to be reevaluated.

Public Works' preference for site access would have been to have the Applicant provide access and parking from the abutting gas station parking lot. This would avoid potential traffic conflicts at the intersection of Sand Hill Road and Vt Rt 15. The Applicant should provide information as to whether or not an agreement to share access with the adjacent property owner has been discussed with the adjacent property owner and that such agreement could not be obtained.

It is with the understanding that the proposed facility is to be seasonal only within the dates indicated in the narrative, between April 1st and October 31st, 5 days a week. Public Works requests that the curb-cut and parking area be closed off when not in use so that they are not used by others for uses not approved for.

- 192
193 20. Staff recommended that the parking lot be graveled instead of paved and the approach apron
194 should meet Public Works requirements from the curb cut into the graveled parking lot.
195
196 21. As noted in Finding 4 above, the applicant is proposing a total of 12 parking spaces in an area
197 where the recently demolished house was situated. The applicant or landowner have not provided
198 any information on future residential development.
199
200 22. Pursuant to Section 5.7 of the Zoning Regulations - Conditional Use, the Board finds that with
201 proper conditions:

202
203 **[CAPACITY OF EXISTING OR PLANNED COMMUNITY FACILITIES]:** Currently, this
204 is a vacant residential lot with a proposed commercial yearly temporary use on the premises.
205 *This project does not propose to burden the existing community facilities. This project is not*
206 *adjacent to, nor does it use existing community facilities with exception to fire, rescue and police*
207 *emergency services. This project doesn't expect to burden these municipal services.*
208

209 **[CHARACTER OF THE AREA AFFECTED]:** The parcel is located in a Medium Density
210 Residential Zoning District. Although the existing house was removed from the premises, the
211 plan does not indicate an area for residential development. Currently, the proposal is to use the
212 premises for a commercial business.
213

214 **[TRAFFIC ON ROADS AND HIGHWAYS IN THE VICINITY]:** The parcel is located at the
215 corner of a major intersection in a high traffic area. Sand Hill Road provides access to the Town
216 Park as well as Founders School and Essex Middle School. A traffic study was not provided
217 however, it is noted that due to COVID, it would not reflect an accurate use of the intersection. In
218 addition, the State of Vermont has this intersection slated for reconstruction in 2022.
219

220 **[BYLAWS AND ORDINANCE IN EFFECT]:** Inasmuch as Zoning Regulation Section 4.15
221 (B)(3) 'Temporary Uses' allows for a temporary use a commercial use is proposed on a vacant
222 residential lot.
223

224 **[UTILIZATION OF RENEWABLE ENERGY RESOURCES]:** The proposed use will not
225 adversely affect utilization of renewable energy resources.
226

227 **[CONFORMANCE WITH THE TOWN PLAN]:** Accessory uses are promoted in connection
228 with single-family homes and would be in conformance with the Town Plan; and
229

230 **[SITE PLAN REVIEW CRITERIA]:** Pursuant to Section 4.15 of the Zoning Regulations, the
231 applicant is also required to receive Planning Commission approval.
232

233 **The Board finds that the proposed use does not create an adverse impact on traffic and roads in**
234 **the vicinity.**
235

236 **CONDITIONS:**
237

- 238 1) Prior to construction/site preparation, the applicant shall submit a curb-cut application to

Public Works through the Zoning Administrator. The applicant shall provide Public Works confirmation on of the property corner at the ROW and the southernmost property lot line.

2) The applicant shall obtain and/or renew its license from the State Health Department and submit a copy to the Zoning Administrator each year.

3) The curb-cut and parking area shall be closed off when the business is closed for the season.

4) The applicant shall meet all setback requirements for placement of the structures.

5) A Certificate of Occupancy inspection shall be required prior to opening for business.

6) This temporary use shall operate each year from Aprilst through October 21st. The hours of operation shall be Wednesday through Sunday, 11:00 a.m. to 8:00 p.m., and including closing from 2:00 p.m to 4:00 p.m, at the applicant's discretion.

7) No more than 3 employees shall work at the same time.

8) Pursuant to Section 3.10(A)(9), the applicant shall be allowed one sign, not to exceed 3 square feet (3SF) in area, nor ten feet (10') in height from ground level. Such sign shall be placed at least 5' from the right-of-way and shall not interfere with motor vehicle circulation or site vision. No signage advertising any other product is allowed. No banners shall be allowed on-site. The applicant shall provide directional signage to the designated parking spaces for the handicap parking use. A menu board and one façade sign shall be placed on the food trailer. All signage shall be approved by the Zoning Administrator.

9) During hours when the business is closed, the food trailer shall be locked and secured.

10) No stand-alone exterior lighting is approved for this temporary food trailer use.

11) The applicant shall supply two large, covered trash bins and a recyclable bin near the food trailer and eating area. All bins shall be emptied into the permanent trash container and removed weekly from the site, including pumping the wastewater out by a certified company.

12) The applicant shall obtain all state permits that may be necessary for this business and provide a copy to the Zoning Administrator.

13) The trailer shall be removed from site during the winter months.

14) The picnic tables and electrical power meter shall be kept within the fenced in area.

- 284
285 15) By acceptance of the conditions of this approval without appeal, the applicant confirms
286 and agrees for himself and all assigns and successors in interest that the conditions of this
287 approval shall run with the land and the land uses herein permitted ; and will be binding
288 upon and enforceable against the applicant and all assigns and successors in interest.
289

290 **The MOTION passed 4-0.**
291
292

293 **AGENDA ITEM 4: MINUTES: JANUARY 6, 2022:**
294

295 **Board Member St. James MOVED and Board Member Yandow SECONDED a MOTION**
296 **to approve the 1/6/22 minutes as written.**
297

298 **The MOTION passed 4-0.**
299

300 **OTHER BUSINESS:**
301

302 Kelley reported that she is expecting one application for the February ZBA meeting.
303

304 The meeting adjourned at 7:03 p.m.
305

ZONING BOARD OF ADJUSTMENT

306 By:

307
308 Nick Martin, Chair
309