

Lincoln ZBA Meeting Minutes For a meeting held on October 11, 2021

****PENDING APPROVAL****

Attended in-person:

Tommie Thompson (ZBA Chair), Nicole Lee (ZBA Clerk), Josiah Jackson (ZBA), Ann Moreau-Kensek (Zoning Administrator), Matthew Lee (waiver request applicant), Chuck Norton (landowner in Sand Pit conditional use application)

Attended via Zoom:

Barry Olson (ZBA), Serena Fox (ZBA), Patricia Waugh (ZBA), James Dumont (legal counsel to ZBA), Bill Finger (Selectboard Chair), Benjamin Putnam (legal counsel to Selectboard)

1. Tommie Thompson called the meeting to order 7:06 pm.
2. No public commentary so commencement of agenda items begins.
3. Waiver applicant not present so Nicole stepped out of the room to contact applicant.
4. Tommie reviewed Zoning Regulations in regards to applicant's presence and reviewed waiver requirements.
5. Nicole came back in the room after contacting the applicant.
6. Benj was discussing the intent of the letter to the ZBA from the town, expresses that he's unsure of the timing requirements for the final decision.
7. Jim Dumont stated that the timing for a decision appeal has passed but that it's up to the ZBA to accept the conditions in the letter or not.
8. Tommie asks how common it is to agree to additional terms.
9. Jim D. stated that it's pretty common for ZBAs to change their final decision after 30 days.
10. Jim D. says the risk is to the Town not the ZBA.
11. This is because if the Town conducts itself within the revised decision, and because that decision was made outside of the stated regulations, it could be argued that the latest decision is not binding.
12. Tommie asks Jim D. if it's inappropriate for the ZBA to revise their final decision outside of the regulations in place.
13. Jim D. says that there's no ordinance or statute against it.
14. Josiah asks what the process would entail of changing the bond to a reserve fund.
15. Benj says that the reserve fund may need to be approved by town voters.
16. Benj reiterates the point of the bond or reserve fund, which is to ensure the cost of the reclamation process.
17. Benj suggests to state on the revised ZBA decision that it is final and that there is 30 days to appeal, if the ZBA chooses to revise.

18. Bill Finger states his point of view that it seems like the ZBA can change their decision based on the regulations and statutes that he's reviewed.
19. Jim Dumont states that the Vermont Supreme Court says if new information is presented then a case can be reopened. Since no one has opposed the intent of the Sand Pit conditional use application so far, it seems prudent to comply if the ZBA feels that the conditions are appropriate and/or fair.
20. Chuck Norton had some questions about the conditions set forth in the ZBA's decision: #5 (his response is that his son's house is over 400' away so complying would be possible), #7 (concerned that trucks don't go by school, so how is this applicable?-ZBA's concern is trucks going through during bussing hours), #9 (concern is that air or jake breaks are for safety reasons so why couldn't they be used – ZBA's concern is related to noise, specified breaks may be used for safety reasons).
21. 7:50 pm motion to end discussion by Tommie and go into deliberative discussion at the end of the meeting.
22. Trish seconded – ayes have it.
23. Benj P., Bill F., Jim D. and Chuck N. left the meeting.
24. Matthew Lee began his presentation of his waiver request: states that he's considering his views of the area while being discreet within the landscape for the new build.
25. Tommie asked Matthew to bring wetland info to the site visit.
26. Matthew says he will contact Jeremy Revell (of Applied Geology who did the wetland survey) to see if he can accompany us on the site visit next week.
27. Matthew added that no windows of the new building would be facing the road and that the house aesthetics (barn-like) are intentional to blend into the landscape.
28. Tommie suggests continuation next Monday on Lincoln gap road at 5:30 pm at the property referred to in the application to review the site.
29. Nicole seconded - ayes have it.
30. Hearing portion of the meeting adjourned.
31. Selectboard putting together an ad-hoc committee regarding the reorganization of the Planning Commission and Zoning Board of Adjustment: Josiah, Serena and Tommie volunteered – Selectboard will pick two.
32. Bay Jackson and Will Sipsy from the Selectboard will be on the ad-hoc committee.
33. Tommie to keep us posted on the development of the ad-hoc committee.
34. Ann said that all members of the ad-hoc committee will be determined at the next Selectboard meeting.
35. Current member terms that are up 9/2021: Trish would like to remain on the board, Nicole will stay on as Clerk if there are no objections.
36. Tommie to recommend to the Selectboard that Trish and Nicole to renew their terms on the ZBA.

37. Ann said an email to the Selectboard would suffice, along with any other recommendations for the (1) vacancy on the ZBA.
38. Motion to go into deliberative session to discuss Benj's letter at 8:21 pm.
39. Nicole seconded – ayes have it.
40. Deliberative session ended at 9:14 pm.
41. Ann asked about what to tell people when they come to her about starting Airbnb rentals since there is no language currently in Lincoln's Zoning Regulations as what to do.
42. A main point determined is if the person asking lives on the property or not, but that there needs to be language in the new Zoning Regulations as guidance for proper procedures.
43. Ann mentioned that there is a grant(s) available with an affordable housing focus for revising the Zoning Regulations. The planning commission will apply.
44. Motion to adjourn meeting at 9:41 pm.
45. Seconded – ayes have it.

Respectfully submitted on October 14, 2021 by Nicole Lee, ZBA Clerk