

## **Shaftsbury Development Review Board**

Cole Hall

July 7, 2021

### **Call to order**

The meeting came to order at 6:02 p.m. Present were board members Tom Huncharek (chair), Tedd Habberfield, Mike Day, and Lon McClintock. Also present was zoning administrator Shelly Stiles, and several members of the public.

### **Conflict of interest statement**

No one reported a conflict of interest with any item on the agenda.

### **Sign in sheets**

Sign in sheets and oral testimony oaths were signed by citizens Sue Green, Karen Mellinger, Chad Skinner, Christopher Ponessi, and Tiffany Green.

### **Outstanding minutes**

Mr. Huncharek moved to approve the June 16 minutes. Mr. McClintock seconded the motion, which passed 4-0-0.

**Application #21-0060**, parcel 11 02 18, 2506 Glastenbury Road, F&R zone, owners Sue and Gale Green: appeal of a May 25 denial of a request to install a 288 s.f. gazebo on the property.

Ms. Green described her situation. She said the family had been prevented from enjoying themselves by the pandemic. On a ride, they saw a gazebo and decided to buy it to allow them to enjoy their out of doors. They removed an existing 12' x 16' shed and placed the gazebo near but not on the footprint of the former structure. The old structure had been placed on ground and was used for storage.

She said the gazebo was about one half screened in, and about one half fully enclosed. Chad Skinner elaborated that the family hooked the gazebo up to an existing outside electric stanchion connected to electricity in the house, providing it with power. Ms. Green said she didn't know that her zoning district didn't allow new construction such as a gazebo. Ms. Green's appeal letter was entered by reference into the minutes and the evidence package.

Upon questioning from Mr. Huncharek, Ms. Stiles explained that, as best as she remembered, Ms. Green reached out to her in 2020 for another reason, and as an aside said she'd installed a gazebo on her property. She said she wasn't sure the family was going to keep it. Ms. Stiles explained that a gazebo would not be allowed in a Forest and Recreation zone and outlined the rules for that zone. Ms. Stiles said she would check back in a while to see whether the family had decided to keep the gazebo. She did so about three months later and learned that the family had decided to keep the gazebo.

On Mr. McClintock's questioning, Ms. Green said the gazebo is in place on the property, as well as a house, a garage, two closed-in wood sheds, and an outdoor furnace. She said the year-round residence was built in 1971. The garage was built before 1983, when their daughter was born, probably in the late 1970s.

On questioning from Mr. Day, Ms. Green said the gazebo is about 25' from the property line. She said she owns four parcels in the area, including the one to the south her daughter and son-in-law

live on. The couple own the home on that parcel. The parcels each have separate deeds but are combined as one for tax purposes. Access to the parcels is off East Road on Glastenbury Road, which runs through the town of Glastenbury before returning to Shaftsbury.

Ms. Stiles submitted the certificate of service to abutting landowners.

Ms. Mellinger said the structure isn't so much a gazebo as a combination shed/enclosed porch.

Mr. Skinner said the old structure was about 12' x 16' in size. The new structure is 12' x 24' in size, and is placed on timbers on a compacted gravel pad.

Mr. Ponessi suggested the structure could be considered a seasonal use hunting camp.

Ms. Stiles noted that the Forest and Recreation zone in the area was adopted in 1980.

Mr. McClintock said the rule is that a non-conforming use cannot be expanded. He asked the citizens what would be the argument that this is a de minimus change?

Ms. Mellinger said the zoning district's establishment was unfair to residents. She said the extra size of the new structure is negligible, and that it replaces the old shed.

Mr. Habberfield asked if the bylaw makes a distinction between permanent and temporary structures. Ms. Stiles said it does not.

When there were no more comments from board members or citizens, Mr. Huncharek moved to close the hearing. Mr. McClintock seconded the motion, which passed 4-0-0.

Mr. Huncharek explained to the appellant that the board has 45 days to make a decision. If that deadline is not met, approval is automatic. The decision will be released in writing to the appellant and abutters.

Mr. McClintock explained that the zoning administrator has no lee way to make judgement calls in implementing the bylaw. The DRB, however, has greater flexibility in interpreting the bylaw.

**Application #21-0075**, parcel numbers 06 20 09 and 08 20 01, 539 and 541 Blueberry Hill Rd., owners Trevor A. and Jamie Stratton Mance Family Trust, boundary line adjustment. **Review this** Four existing lots totaling 32.60 acres – lot 1, 3.0 acres, lot 2, 2.3± acres, lot 3, 22.6 ± acres, and lot 4, 4.7± acres, to become lot 1, 26.0± acres, lot 2, 2.0± acres, and lot 3, 4.6± acres. Existing wastewater and private water systems to be used.

Mr. Ponessi presented the project and two plats depicting it. He said the Mances purchased the former Woodard property in spring 2021 and now hold the property under an LLC. They have renovated the house and intend to rent it out for short- or long-term periods. Parts of the remaining acreage are to be held by the family trust, and the remainder owned in simple fee.

Mr. Ponessi submitted the certificate of service to abutting landowners. He submitted the existing wastewater permit for the Mance's home parcel. Mr. Ponessi has submitted a wastewater permit application for the new lot **XXX**, which consists only of the siting of a replacement system. The existing system is grandfathered. When the permit is issued, he will add that permit number to the plan.

The board went through subdivision regulations 5.4, preliminary plat requirements (as required by boundary line adjustments). At the board's request, Mr. Ponessi will make the following changes/additions:

- The new wastewater permit number will be added to the plat.
- Per 5.4.8, Blueberry Hill Road will be labeled and its width of 18' feet noted.
- Magnetic North will be added and clarification as to whether State Plane North is true north will be made.

Mr. Huncharek moved to close the hearing. Mr. McClintock seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to enter public deliberative session. Mr. Habberfield seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to approve application #21-0075 with the conditions noted in the minutes. Mr. Day seconded the motion, which passed 4-0-0.

### **Other business**

Mr. McClintock moved to enter *private deliberative session on application #21-0060*. Mr. Huncharek seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to leave private deliberative session. Mr. Habberfield seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to approve application #21-0060, for the following reasons as discussed in deliberative session:

- Replacing an old structure with a structure approximately 100 s.f. larger is not a substantial change.
- The combination screened-in porch/shed has no effect on the use of the property or on the neighborhood.
- All other existing uses were established well before zoning was adopted in the town of Shaftsbury.
- The new structure is a minor expansion of a use well established before the adoption of zoning.
- Per bylaw section 5.2, sheds are allowed in the Forest and Recreation zone, supporting the claim that a shed is not offensive.

Mr. McClintock seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to enter *private deliberative session on application #21-0019*. Mr. Day seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to leave private deliberative session. Mr. Habberfield seconded the motion, which passed 4-0-0.

Mr. Huncharek moved to approve application #21-0019 with the following conditions:

- Paragraph one of the affordability covenant be revised as follows:
  - The word “Declarant” in the phrase “became vested in the Declarant” shall be replaced by the name of the owner;
  - The blank spaces in the phrase “became vested in the Declarant by Deed of \_\_\_ dated \_\_\_” shall be replaced with the date of signing and the date recorded, in that order;
  - In the last phrase of that paragraph, “the Town Land Records” shall be replaced by “Shaftsbury Land Records.”
- The approval of application #21-0019 does not apply to the singly family home on the parcel. The decision applies only to the former motel structure. Any change of use in the single family home shall require a new permit application.
- All structures and landscaping shall be installed as depicted on plans XXXX.
- All provisions of the wastewater and potable water supply permit shall be complied with.
- The Town of Shaftsbury’s sign ordinance shall be complied with.
- Existing vegetative screening, if any, on parcel 11 02 18, shall be maintained.

- All plans submitted in support of this application, to wit, XXXX, shall be recorded in the Town Clerk's office as part of this decision.
- Changes to the Declaration of Protective Covenants and Restrictions required above must be completed and approved by the zoning administrator. The Declaration of Protective Covenants and Restrictions must be recorded in the Town Clerk's office.

Mr. Day seconded the motion, which passed 4-0-0.

Ms. Stiles noted that a sketch plan approval is on the agenda for the July 21 meeting. Mr. McClintock will not be present. Other board members will be available.

Mr. McClintock moved to adjourn at 7:45 p.m. Mr. Habberfield seconded the motion, which passed by acclamation.

Notes by ZA Stiles.