

Approved Minutes
MAIDSTONE ZONING BOARD OF ADJUSTMENT MEETING
Tuesday, March 15, 2022
Part II of Recessed March 8, 2022 meeting
Held by Zoom Video Conference

Members present (via Zoom): Roger Emery, Chris von Alt, Bruce Barker (alternate)

Other members of Town Government present (via Zoom): Zoning Administrator Lloyd Tippitt; Town Clerk and Lister Amy Pear; Town Treasurer, Lister, and Planning Commission Member Bob Champagne-Willis; Administrative Assistant to the Zoning Board, Mary von Alt

Also present: James Bennett, Chris Carazzo, Kevin Sheehan, Frank Babcock, June Lockert, Lynn Emery

Prior to the official start of the meeting, Town Clerk Amy Pear reported that at the Selectboard Meeting the night before, Monday, March 14, 2022, the Selectboard had appointed Mary von Alt as the Administrative Assistant to the Zoning Board and had assigned three year terms of office to Chris von Alt, member of the Zoning Board and now Chairman, and Bruce Barker, alternate member of the Zoning Board.

Chris von Alt, Chairman of the Zoning Board, called this Part II of the recessed March 8, 2022 meeting to order at 6:02 pm. He asked if anyone had any statements to make prior to presentation of the Board's findings. There were no statements offered.

Chris then read aloud the findings of the Board in response to the five facts stipulated in the Maidstone Zoning Bylaws and in Vermont Statutes, each of which facts must be found in order for a variance to be granted.

- 1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;*

Finding 1: The appellant gave no evidence of unique physical circumstances or conditions.

- 2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;*

Finding 2: There are no unique physical circumstances or conditions that prevent the appellant from using the property in accordance with the zoning bylaws.

3. *The unnecessary hardship has not been created by the appellant;*

Finding 3: The hardship was caused by the appellant, by being in violation of the bylaws.

4. *The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare;*

Finding 4: Approving the variance would greatly change the use of the property.

5. *The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.*

Finding 5: Granting the variance would greatly deviate from the regulations and plan.

The Chairman asked if there were any comments. Mr. Bennett asked if the findings meant he would be denied; the response was yes. Mr. Bennett then asked if Chris von Alt was an alternate on the Board. Chris identified himself as the Chairman. Mr. Bennett repeated his question; Chris von Alt repeated his answer. Mr. Carazzo asked if any abutters had been heard from. Town Clerk Amy Pear said the Town had not heard from any abutters.

The Zoning Board then proceeded to the formal vote on each finding.

The Chairman read the Zoning Board's Finding 1, its response to Fact #1 from the Maidstone Zoning Bylaws, §509 Variances. Roger made a motion to vote on #1 as read. Bruce seconded the motion. The motion carried.

The Chairman read the Zoning Board's Finding 2, its response to Fact #2 from the Maidstone Zoning Bylaws, §509 Variances. Roger made a motion to vote on #2 as read. Bruce seconded the motion. The motion carried.

The Chairman read the Zoning Board's Finding 3, its response to Fact #3 from the Maidstone Zoning Bylaws, §509 Variances. Roger made a motion to vote on #3 as read. Bruce seconded the motion. The motion carried.

The Chairman read the Zoning Board's Finding 4, its response to Fact #4 from the Maidstone Zoning Bylaws, §509 Variances. Roger made a motion to vote on #4 as read. Bruce seconded the motion. The motion carried.

The Chairman read the Zoning Board's Finding 5, its response to Fact #5 from the Maidstone Zoning Bylaws, §509 Variances. Roger made a motion to vote on #5 as read. Bruce stopped the process to consider the wording of Finding 5 in comparison to the wording of the Fact as written in the Bylaws. After this consideration, Bruce said that although worded somewhat differently from each other, the Finding and the Fact said the same thing. He then seconded the motion. The motion carried.

Bruce then moved that the variance be denied, based on the Findings. Roger seconded the motion. The Chairman asked if there were any discussion. Mr. Bennett again questioned who the members of the Board were as he thought Chris von Alt was an alternate, Bruce was an alternate, and Roger was the only full member. Amy realized that Mr. Bennett was interpreting the "Alt" in "von Alt", which appeared on the Zoom screen, as indicating that Chris was an alternate; she explained that von Alt was Chris's last name. Mr. Bennett thanked her for the explanation. Chris Carazzo asked what was the next step. However, the motion was on the floor to deny the variance; discussion was limited to that issue. The Chairman then ended the discussion and called for the vote. Mr. Bennett asked again what the next step was, but the vote was in progress, so the question was not addressed at that point. The vote continued. The motion carried. The variance was denied.

Chris von Alt then asked Mr. Bennett if he had something that he wanted to say. Mr. Bennett asked again what the next step was. Chris responded that the Board's next step would be discussing Mr. Bennett's violations with the Zoning Administrator. Mr. Bennett clarified that he was asking what his next step should be and asked if the Zoning Board would guide him. Chris von Alt reminded Mr. Bennett that at the March 8, 2022 meeting, he (Chris von Alt) had suggested that Mr. Bennett contact Eric Deratzian, Regional Engineer for the Vermont State Drinking and Groundwater Protection Division of the Vermont Department of Environmental Conservation (DEC) to discuss the potable water and waste water systems on his property, and had given Mr. Bennett the contact information. Chris also advised him that next he would be cited for the zoning violations on his property. Amy asked Mr. Bennett if he had a copy of the Bylaws, which are on the Town website. Mr. Bennett assured her that he did and printed them off all the time. Amy told him that the Bylaws include information about what he can do from this point forward. Chris told Mr. Bennett that he had a right to appeal the decision to the Environmental Court, as laid out in the bylaws. This was reiterated shortly thereafter by the Zoning Administrator.

Chris Carazzo said that either Chris or Roger had advised Mr. Bennett during the first part of the meeting on March 8, 2022, to look into opening a campground, in fact, had "directed" him to do that; Mr. Carazzo asked if that is a business acceptable in the Forest district of Maidstone. Roger clarified that he had not advised Mr. Bennett to start a campground, but had said that he felt Mr. Bennett had started a campground. Mr. Carazzo said he wanted to see the video recording of the meeting, because he remembered it differently. He asked if a campground is an approved business in the Forest district. Chris von Alt said that the process that must be followed in developing property is laid out in the Bylaws. Mr. Carazzo asked if he would be able to see the minutes and the video recording of the meeting. Chris von Alt explained that the minutes

are public and would be published on the Town's website. Amy detailed how a copy of the recording could be obtained.

Chris von Alt asked if there were any other comments; hearing none, he called for a motion to adjourn. Mr. Bennett then said the Board had not answered Chris Carazzo's question about whether he could or could not open a business as a campground, following all rules and regulations, in the Forest district. He said that he had a lot of money tied up in this whole situation. Chris von Alt reminded him that if he had a lot of money tied up in his property, he had done that without consulting with the Town. Roger said that once Mr. Bennett had all of his State permits in place for a campground, he would have to apply for another variance from the Town. Mr. Bennett said that the Zoning Board was not answering his question. The Zoning Administrator, Lloyd Tippitt, responded that on page ten of the Zoning Bylaws (Table 210.05: "F" Forest), "Home Occupation" was listed under "Permitted Uses". He suggested that Mr. Bennett investigate whether or not a campground met the definition of Home Occupation. Chris von Alt said that at this point there was not enough information to make a judgement call about this campground development possibility, and that the current issue was that Mr. Bennett has ten trailers on his property that are in violation of the Town's bylaws. Mr. Bennett nodded and said, "Yup." Chris Carazzo said, "That they are."

Mr. Carazzo said that the trailers sit vacant for nine months out of the year, so Mr. Bennett is only in violation of the number of trailers allowed. Roger said, "Would you agree, sir, that you are in violation of our bylaws?" Mr. Bennett responded, "Absolutely not."

Roger made a motion that we adjourn. Mr. Bennett objected, saying, "no one can say anything more because you want to adjourn the meeting?" Chris von Alt said that comments were welcome relevant to consideration of the variance; the meeting had been called to make a ruling on the variance. Mr. Carazzo said, "Yup. I appreciate that." Chris von Alt said that the decision had been made. Mr. Bennett was welcome to write something to the Planning Commission or the Zoning Board that could be looked at and evaluated. Mr. Bennett questioned who was on the Planning Commission and was told the Zoning Board members were on the Planning Commission as was Bob Champagne-Willis. Bruce Barker said he is an alternate on the Planning Commission as well as on the Zoning Board.

Roger made a motion that the meeting be adjourned. Bruce seconded the motion. The motion carried. The meeting was adjourned at 6:31 pm.

Respectfully submitted,
Mary von Alt