



TOWN OF BOW

Zoning Board of Adjustment

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Approved as amended on October 20, 2020

MINUTES

August 18, 2020

The Town of Bow Zoning Board of Adjustment met on Tuesday, August 18, 2020 at 7:30 PM via Zoom. Chair Harry Hadaway called the meeting to order with a roll call introduction of the Board.

Members present were Harry Hadaway, Chair, Robert Ives, Vice Chair, Donald Burns, Secretary, and Stephen Buckley. Tony Reynolds was excused. Also present were Matt Taylor, Community Development Director, and Alvina Snegach, recording secretary.

Mr. Hadaway read the virtual meeting checklist into the record. Then Mr. Hadaway directed the attention of the Board to Agenda item I.1

OTHER BUSINESS Notice of Decision for MOTION FOR REHEARING ON THE APPEAL OF ADMINISTRATIVE DECISION Case #101-20 clarification review.

Mr. Hadaway read the item into the record and explained the rationale behind this particular review, which is to clarify the intent of the Board in the use of the word “being”, which was used several times in the motion, and was then used in the notice of decision drafted by the staff. This notice of decision language was later contested by the applicant. Laura Hartz from Orr and Reno also introduced herself and noted that she was only present to answer any question the Board may have. Then Mr. Hadaway opened the floor for Board discussion.

Mr. Buckley noted that there seemed to be some struggle to communicate whether the site was used as a junkyard in accordance with the RSA definition the immediate past as opposed to suggesting that it was used as such in the more distant past. He also noted that Mr. Ives sent an email stating that there was evidence of the site being used as a junkyard only intermittently.

Ms. Hartz agreed with Mr. Buckley and said that the question is about either the degree of frequency or an instance in time when the property could have been used as a junkyard; whether that was in the distant past, or in the more recent past, or could be in the future, if such use continued and trash continued to be transferred from dumpster to dumpster.

Mr. Ives noted that the use of the word “being” is giving the connotation that the site is continuously used as a junkyard, as opposed to it being used intermittently or occasionally, which maybe better words to be used in this case.

Both Mr. Buckley and Mr. Burns agreed with the above statement. Mr. Burns added that he did not think the Board knew exactly when or how often it was operated as a as a junkyard and it would be fair to say it was intermittent as far as the Board knows. He said that there was certainly no proof that it was constantly used as such. Mr. Burns also said that he was not sure what the Board is currently trying to vote on, given the Motion for Rehearing request, and also that it was unclear to him whether what the Board had voted on was accurately reflected in the notice of decision.

After being asked for clarification, Ms. Hartz explained that the motion for rehearing had five parts to it, of which the first four, that had to do with obtaining a site plan (A,B,C, and D) were stayed until

October 20, 2020. The fifth part (E) requested that the notice of decision be revised based on a clarification of the Board's intent and that part of the motion was also voted to be continued to October 20, 2020. Ms. Hartz concluded that it was her understanding that the Board would need to figure out whether any clarification to the notice of decision itself is necessary and that is what is under review today and not the Motion for Rehearing itself.

Mr. Buckley suggested to change the word "being" to "has been" and a short discussion ensued about doing so versus simply deleting the word "being". General consensus was that replacing "being" with "has been" reflects the past use of the site as a junk yard and if the word intermittent remains untouched, the intermittent nature of such use remains stated. Mr. Buckley noted that the Board did see a video of trash transfer happening on site, and could have noted the time stamp of the video to determine the particular time. However, he noted that he does agree with the proposed changes. Discussion ensued about the clarification written in parentheses and whether it should remain in the notice of decision. Suggestions were made to replace the word "being" in the parenthetical sentence for "has been" or "used". Mr. Hadaway also noted that the word "is" would have to be removed in addition to "being" should "has been" become the new language.

Mr. Buckley made a motion to amend the notice of decision language in the third sentence to take out the word "being" and have it say "...located at 345 River Road has been intermittently operated", and then in the following parenthetical phrase "...to the extent of property is used for the temporary storage of scrap and waste..." , taking out the word "being". Mr. Ives made a friendly amendment that the word "is" in front of the word "being" that would be replaced with "has been" has to come out too. Mr. Buckley agreed to the friendly amendment. Mr. Burns clarified that the language should be changed in the notice of decision issued on June 18, 2020 and that the notice should be reissued and resent. Mr. Buckley agreed to the clarification as well. After rereading the revised language, Mr. Burns duly seconded the motion and a roll call vote was taken. Mr. Ives – yes; Mr. Burns – yes; Mr. Buckley – yes; Mr. Hadaway – yes. Motion passed 4:0.

REVIEW OF MINUTES: 7/21/2020

July 21, 2020 draft minutes were reviewed, and changes were made. *Mr. Buckley made a motion to approve the 07/21/2020 minutes as amended. Mr. Ives duly seconded and motion passed 4:0 by a roll call vote: Mr. Ives – yes; Mr. Burns – yes; Mr. Hadaway – yes; Mr. Buckley – yes.*

Mr. Ives made the motion, duly seconded by Mr. Burns, to adjourn. Motion passed unanimously.
Meeting adjourned at 9:35 PM