

October 15, 2020

The regularly scheduled meeting of the Hartland Planning Board was held on the above date at the Hartland Town Hall 6:30 PM

Members of the Board present:

Beverley Snell, Merle Snell, Margaret Darroch, Robert Harris, Chairman, Attorney David Haylett

Others present Kenneth & Gigi Sherrie, William Capen, April Volkosh

Public Meeting

Owner/Applicant: Kenneth H. Sherrie II

Property Location: 7565 Ridge Road, Town of Hartland 68.00-4-9.11

Application: Special Use Permit and Site Plan Approval to allow construction of a 90 x 115-foot pond on said property.

Chairman Robert Harris opened the meeting and read the public notice, as advertised.

Chairman Harris stated that the soil from the pond cannot leave the town.

Mr. Sherrie stated that he intended to use the soil for fill around the new house.

Chairman Harris noted that the SEQR was in place for this project.

Motion by Beverley Snell, **seconded** by Margaret Darroch that as per SEQR, the proposed action will not result in any significant adverse environmental impacts.

Chairman Harris asked if anyone wished to comment.

Motion by Margaret Darroch, **seconded** by Merle Snell to allow construction of the 90 X 115-foot pond on said property. **CARRIED**

Public Hearing #2

Owner / Applicant: William B. Capen III

Property Location: 2865 Hartland Road, Town of Hartland 55.00-1-18

Application: Special Use Permit for an ECHO Residence to be located on the premises along with the primary residence.

April Volkosh was present, had submitted an email requesting information on the hearing.

Mr. Capen explained that he had made an apartment for his mother in the garage, behind the house, and was already being used as such.

Ms. Volkosh stated that she as a neighbor had no concerns but was approached by another neighbor with concerns about the drainage. She was confident that as this permit was held under the town approval process, that every detail would be addressed.

Chairman Harris asked how long the residence would be in use?

Mr. Capen explained that his mother is 58 years old, he does not know how long it will be needed. This is a financial hardship, and it depends on the length of needs.

CEO Hartman stated that an ECHO permit usually remains until the death of the occupant. There is a lot that is needed for this property to meet code. This is a detached garage with a forced septic.

Attorney Haylett noted that the code specifically states that an ECHO permit is for a medical need for a person 60 years old and above. It does not state for a financial need, to grant this permit the code would have to be amended or the applicant would have to apply for a use variance. Use variances are very hard to obtain and they go with the property forever. Special use permits are relieved after no longer needed.

CEO Hartman stated that Mr. Capen could add onto his house or attach the garage with a breezeway, which would make it a 2-family property and then an ECHO would not be needed. A permit for this would give him one year to complete the project.

Mr. Capen expressed his wish to help his mother and that the cost of adding on was not in his budget.

Beverly Snell asked if it would be possible to make an exception to code.

Attorney Haylett stated that the age requirement cannot be overlooked. He stated that the code could be amended to amend the age requirement, but it could take months to complete.

Margaret Darroch stated that due to COVID, the code has been relaxed for others and suggested leaving the public hearing open in order for Mr. Capen to reach compliance, as we do not want to disrespect the law as written.

Both Beverly and Margaret stated that the law should have financial need added to the code.

Attorney Haylett suggested leaving the public hearing open and Mr. Capen could confer with the attorneys. He stated that there cannot be an apartment without a breezeway.

CEO Hartman suggested a temporary conditional use. He could explore the possibilities to attach the garage to the house, since all the conditions do not meet the criteria for an ECHO.

Chairman Harris adjourned the public hearing at 7:20 PM

The regular meeting was opened at 7:25 PM.

It was stated that whenever local government does something it is presumed legal. If this permit were granted, it would open the possibility for many other situations. It was suggested that the Planning

board ask the Town board to re-examine conditions and age of the ECHO to make financial a specific reason for compliance.

Attorney Haylett will draw up a proposal for the change to present to the Town board.

Motion by Margaret Darroch, **seconded** by Merle Snell that any activity on this request be deferred to a later point and motion to keep the ECHO Public Hearing open. **CARRIED**

Motion to adjourn by Margaret Darroch **seconded** by Beverley Snell, the meeting adjourned at 7:40PM

Respectfully submitted,

Cynthia S. Boyler

Secretary