

**Approved
MINUTES
Zoning Board of Adjustment
September 9, 2020**

**THIS MEETING WAS CONDUCTED IN COMPLIANCE WITH
THE VERMONT OPEN MEETING LAW
WITH ELECTRONIC PARTICIPATION**

Present: Chris Lowe, Tom Franklin, Alice Maleski, Scott Snyder, Emma Behrens, Selectboard Liaison, Lori Hirshfield, Planning and Development Director and Jo-Ann Ells, Zoning Administrator

Absent: Steve Lagasse

Public Hearing

Chris Lowe read a script as required to hold a remote Public Hearing.

Chris Lowe opened the Public Hearing, explained the interested party rule and administered the oath.

Chris Lowe conducted a roll call.

1. Application #11-20 by Execusuite, LLC (owner/applicant) appealing a Notice of Violation issued for unpermitted improvements to a building, 87 Maple Street, lot 46-0008-000, White River Junction, in a CB-2 zoning district and Special Flood Hazard Area.

Tim Sidore and Nick Burke were present to represent Execusuite.

Jo-Ann Ells noted that the draft Findings of Fact include the following information:

- Decision by Jo-Ann Ells to issue a Notice of Violation (NOV)
- Appeal of the NOV by Execusuite
- Relief requested by Execusuite
- Execusuite's alleged grounds why such relief is proper
- Jo-Ann Ells' response to relief requested and alleged grounds why relief is proper

Tim Sidore offered that Execusuite has been pursuing options to comply with the Flood Regulations since December of 2019. He noted that the Zoning Board of Adjustment and State Floodplain Manager approved a plan to remove the structure from the floodplain by raising the grade around the building and that the plan is being reviewed by FEMA.

Tim Sidore stated that the entire process has been slowed by the pandemic and in order to allow a new tenant, White River Ballet Academy (WRBA), to open they have done work to fit up space for them at their own risk. He added that the tenant is ready to occupy.

Chris Lowe asked what was holding FEMA's approval up. Tim Sidore stated that he thought it was a letter that the Town needed to write. Jo-Ann Ells stated that last she knew the information submitted to FEMA from Execusuite's engineer was confusing (FEMA thought they were building a new building).

Chris Lowe asked how long the floodproofing measures would take once started. Tim Sidore estimated it would take one month.

Jo-Ann Ells noted that as outlined in the Findings of Fact, Execusuite has been aware of the need to comply with the Flood Regulations before a permit could be issued for WRBA since January of 2020.

Jo-Ann Ells expressed concern that if FEMA does not approve the plan the work inside the building has been done and an alternative design to come into compliance with the Flood Regulations will need to be prepared.

Nick Burke urged the Board to look at the situation and not just the literal question of if there is a violation or not.

Lori Hirshfield commented that several decisions/permits have been issued with a condition that the flood proofing be completed before any additional permits could be issued and Execusuite never objected. She added that the issuance of a NOV is not taken lightly and there was no other option to meet the requirements of the Regulations.

Chris Lowe stated he would like to hold a Deliberative Session. At 7:15PM non-board members left the meeting and rejoined once the Board concluded the Deliberative Session at approximately 7:30PM.

There were no additional comments or questions.

Alice Maleski moved to close the Public Hearing. Scott Snyder seconded, and the Public Hearing was closed.

Alice Maleski moved to uphold the issuance of the NOV and deny Execusuite's request for relief. Tom Franklin seconded, and the Board voted 3 in favor and 1 opposing (Scott Snyder). The motion passed.

Administrative Matters

1. Minutes of July 15, 2020

Tabled

2. Projects that received administrative approval

None

3. Availability for the next Public Hearing (October 14, 2020)

Chris Lowe noted he might not be available for the Hearing.

4. Public comment

None

Adjournment

At 7:40 p.m. Alice Maleski moved to adjourn. Tom Franklin seconded, and the motion passed unanimously.

Respectively Submitted,

Alice Maleski, Clerk