

**DEVELOPMENTAL REVIEW BOARD  
MINUTES**

**September 13, 2010**

**MEMBERS PRESENT:**

Phil Carter, Chairman  
Richard Harrison

Julie Nicoll  
Linda Petty

Rose Goings, Zoning Administrator

**OTHERS PRESENT:**

John Boehrer  
Chris Callahan  
Peter Crowley  
Mike Doran

Richard McArdle  
Mrs. McArdle  
Carlotta Moore  
Danne Moore

Ted Reeves  
Michelle Stinson, LPC-TV  
Lisha Klaiber, Recorder

1. **CALL TO ORDER**

- A. Meeting opened at 6:00 p.m. by Chairman Phil Carter. Phil Carter advised that the board is currently down one member and that the Select Board will appoint a new member at their September meeting. All board members present.

2. **OPEN THE PUBLIC HEARING FOR MATTHEW GRADER – FINAL PLAT**

- A. Phil Carter advised that this is the final plat review and approval for a 3-lot subdivision. Property address is Nelson Road in the Town Residential District. He said it is a required formality to sign the Mylar.
- B. Julie Nicoll asked if the well shields were indicated on the drawing as requested by this board at the initial hearing.
- C. The well shields were not on the Mylar.
- D. **MOTION by Julie Nicoll and seconded by Richard Harrison to recess this hearing pending well-shield locations on the final Mylar. Motion passed unanimously.**

3. **OPEN THE PUBLIC HEARING FOR MELISSA FISH-CRANE**

- A. Phil Carter advised that this is an application to amend an existing Planned Residential Development Permit to add a mudroom, in the Mountain Recreation District. Property address is 261 Trailside Extension Iroquois 28B.
- B. Rose Goings advised that this is application 128-98-PRD, Amendment #25. Posted in the Town Hall bulletin boards August 20, 2010, advertised THE VERMONT JOURNAL on August 25, 2010, and the abutting property owners were notified on August 23, 2010.

She said that letters have been received from the Ambulance, Police and Fire departments, but that the one from the Home Owners' Association had not been received.

- C. Phil Carter administered the oath to all wishing to speak at this hearing. He added that this request has been seen many times.
- D. Peter Crowley said that this project is the same as all of the previous ones.
- E. Phil Carter said that an existing deck would be enclosed to make a mudroom and the footprint, or what God sees from above, would remain the same.
- F. **MOTION by Julie Nicoll and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

4. **OPEN THE PUBLIC HEARING FOR DANNE MOORE AND CARLOTTA MOORE**

- A. Phil Carter advised that this is an application for to consider a 2-lot subdivision in the Town Residential District. Property is located at 303 Barker Road.
- B. Rose Goings advised that this is application SUB-11-007. Posted in the Town Hall bulletin boards August 20, 2010, advertised THE VERMONT JOURNAL on August 25, 2010, and the abutting property owners were notified on August 23, 2010. Phil Carter administered the oath to all wishing to speak at this hearing.
- C. Danne Moore said that the new lot would be about 30 acres and the original boundary of the farm. The frontage is 828 feet and runs back in a rectangle about 1,400 feet. The house is in the center of the 828 feet and set back about 350 feet from the road.
- D. Phil Carter said that Lot 1 would be 50 acres and Lot 2 would be 30.40 acres. He asked if there are any unique features such as wetlands.
- E. Danne Moore said there is a small stream but that this does not affect it.
- F. Phil Carter said that Mr. Moore is also requesting final plat approval tonight.
- G. Rose Goings said there is no Mylar.
- H. Phil Carter said the board could approve it with conditions.
- I. Richard Harrison asked the locations of the well shields.
- J. Danne Moore said the well is 350 feet from the road.
- K. Phil Carter said that the well shield must be indicated on the drawing.
- L. Rose Goings said that a Mylar must conform to town regulations and have signature boxes.
- M. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing pending conformance with town regulations for recorded documents, including well shields and signature boxes. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR OKEMO LLC**

- A. Phil Carter advised that this is an application for a Conditional Use Permit in the Mountain Recreation District. Applicant is Okemo Limited Liability Company and property owner is CNL Income Okemo Mountain, LLC. Phil Carter advised that this is an application to remove an existing "Poma" lift and replace it with a "Wonder Carpet" lift. Property location is 77 Okemo Ridge Road, Ludlow.
- B. Rose Goings advised that this is application 328-11-CU. Posted in the Town Hall bulletin boards August 20, 2010, advertised THE VERMONT JOURNAL on August 25,

2010, and the abutting property owners were notified on August 23, 2010. She advised that all letters are in except the letter from the fire chief.

- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Ted Reeves advised that this is an application to remove the Poma and replace it with a Wonder Carpet. Both the existing Poma and the new Wonder Carpet are 180 feet long and they are exact in length and location. The reason for this change is that the Wonder Carpet is easier to use for the young ones. He said that the site plan is at Tab #3 in his submittal and photos are in Tab #4. He explained that he had received ability to serve letters from the police, electric and ambulance departments. He also had received a letter from Frank Heald, the Municipal Manager that responded that all town services. Ted Reeves said that he called Mr. Heald to verify that this included the fire department and was told that it did.
- E. Phil Carter noted that 3 towers would be removed.
- F. Ted Reeves said that is correct.
- G. Phil Carter asked if there would be any changes to the lighting.
- H. Ted Reeves said no. There is one floodlight on the lower building, but he does not think there were lights on the towers.
- I. Phil Carter asked if they would remove the conveyor in the summer.
- J. Ted Reeves said it was not necessary to remove it unless they needed to do repairs or needed the space for some activity. The unit is weather resilient.
- K. **0-MOTION by Linda Petty and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

6. **OPEN THE PUBLIC HEARING FOR OKEMO LLC**

- A. Phil Carter advised that this is an application for Local Act 250 Review located in the Mountain Recreation District to remove an existing "Poma" lift and replace it with a "Wonder Carpet" lift. Property location is 77 Okemo Ridge Road, Ludlow.
- B. Rose Goings advised that this is application 329-11-Act 250. Posted in the Town Hall bulletin boards August 20, 2010, advertised THE VERMONT JOURNAL on August 25, 2010, and the abutting property owners were notified on August 23, 2010.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Ted Reeves advised that Attachment A goes through the Criteria. The project does not place unreasonable burden on the municipality to provide educational services as the project does not include any residential construction and will not result in an increase in student enrollment. The project does not place unreasonable burden on municipal services. Ability to serve letters have been received from the police, electric and ambulance departments. He also had received a letter from Frank Heald, the Municipal Manager that responded that all town services. Ted Reeves said that he called Mr. Heald to verify that this included the fire department and was told that it did. The project is in conformance with the town plan. The project is in the Mountain Recreation District and future use of the land is consistent with the direct operation of the ski area facilities and activities. He added that Act 250 considers this a minor amendment and it is out for comments.
- E. Phil Carter asked if any of the ability to serve letters had listed any concerns.
- F. Ted Reeves said no.

- G. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing.  
Motion passed unanimously.**

7. **OPEN THE PUBLIC HEARING FOR OKEMO LLC**

- A. Phil Carter advised that this is an application for Local Act 25o Review in the Village Residential and Town Residential Commercial Districts to allow for an 8-lot subdivision. Property is located on Fox Lane and Dug Road.
- B. Rose Goings advised that this is application 326-11-Act 250. Posted in the Town Hall bulletin boards August 20, 2010, advertised THE VERMONT JOURNAL on August 25, 2010, and the abutting property owners were notified on August 23, 2010.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Ted Reeves advised that in his submittal he goes through the criteria. This project places no burden on Municipal services. It is a subdivision and the purpose for this subdivision is a legal ownership transaction. There is no residential construction planned and there will be no increase in student enrollment due to this project. It is a subdivision and there is no change in land use and no changes to accessing the property. It conforms to the town plan, zoning regulations and flood hazard regulations. The land will stay as is it currently exists. It is really lot line changes only.
- E. Phil Carter verified that there is no proposed development; it is just a legal ownership exchange.
- F. Ted Reeves said that they are aware that any future changes to use of the land must come back before the DRB.
- G. Richard McArdle asked if it was legal to change the ownership because of the existing warranty deeds.
- H. Phil Carter advised that this hearing is only for Act 250 review of the subdivision. He said that legal issues would have been discussed at the Subdivision hearing and that this was not mentioned.
- I. Ted Reeves said that a warranty is the legal standing of the deed. The seller warrants to the purchaser that the title is clear and free of encumbrances. Okemo had clear title and passed that to CNL.
- J. Richard McArdle said that his deed has 15 pages of definitions for use of the land and he does not think that the swap was legal. He said he is not a lawyer.
- K. Phil Carter said that Okemo owned the land and it was subdivided according to the town subdivision regulations. This board is not a jury and any legal issues must be handled outside of the board. There were no questions raised during the subdivision hearing. You will need to take this to court.
- L. Richard McArdle said that he did not have the ability to communicate his concerns at the hearing.
- M. Phil Carter said that all abutters were notified prior to that hearing. The hearing was also posted in the newspaper and on the town hall bulletin boards. The town fulfilled its obligations. It is your responsibility as a concerned party to come forward. He added that none of the other condominium owners, or the condominium association had come forward at the hearing.
- N. Rose Goings said that any correspondence to them would have been sent to their address in Naples, Florida.

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- O. Phil Carter said that this board does not research deeds. If there is a legal issue, you must take it to court.
  - P. Richard McArdle said that he does not think that this is legal according to his deed.
  - Q. Rose Goings said that his property was not affected by the subdivision.
  - R. Phil Carter said that this hearing is only for Local Act 250 review and that if Mr. McArdle wants to take this issue further, it must be done in court.
  - S. **MOTION by Richard Harrison and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

8. **OTHER BUSINESS**

- A. Rose Goings there are 2 decisions coming.

9. **REVIEW AND APPROVE MINUTES**

- A. The board reviewed the minutes of the August 9, 2010 meetings.
- B. **MOTION by Julie Nicoll and seconded by Linda Petty to approve the minutes of June 14, 2010 as written. Motion passed unanimously.**

10. **DELIBERATIVE SESSION**

- A. **MOTION by Julie Nicoll and seconded by Linda Petty to enter into Deliberative Session. Motion passed unanimously**
- B. Board entered into Deliberative Session at 6:36 p.m.

Respectfully submitted,

Lisha Klaiber

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Phil Carter, Chairman

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Julie Nicoll

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Richard Harrison

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Linda Petty