

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

October 26, 2009

MEMBERS PRESENT:

Phil Carter, Chairman	Richard Harrison	Linda Petty, by telephone
Troy Adams	Julie Nicoll	Rose Goings, Zoning Administrator

OTHERS PRESENT:

Matthew Birmingham	Mike Lorraine	Carol Starkey
Francis Broza	Robin Reilly	David Starkey
Bernie Chenette	Carl Spatola	Michelle Stinson, LPC TV
Arlene Dowling	Edward Spaulding	Lisha Klaiber, Recorder
Donald Dowling		

1. **CALL TO ORDER**

- A. Meeting opened at 6:02 p.m. by Chairman Phil Carter. All board members present, Linda Petty by telephone.

2. **RE-OPEN THE RECESSED PUBLIC HEARING FOR LOUIS AND JOCELYN MISANTONE**

- A. Phil Carter advised that this hearing was recessed from the July 13, 2009 meeting and the September 14, 2009 meeting, due to issues between the applicants and neighbor. Phil Carter administered the oath to Matthew Birmingham.
- B. Matthew Birmingham advised that an agreement was signed between Mr. Misanthone and Mr. Munroe that addresses and resolves the issues related to parking, snow removal, water drainage, and driveway maintenance. Mr. Munroe sent a letter advising the board of the resolutions.
- C. Phil Carter advised that this agreement does not change previous testimony.
- D. Matthew Birmingham advised that the agreement is confidential, but does address all of the issues. Essentially, Mr. Munroe will be paid, by the Misanthones to take care of the issues. Mrs. Munroe and Mrs. Misanthone will also sign the agreement.
- E. **MOTION by Julie Nicoll and seconded by Troy Adams to close this hearing. Motion passed unanimously.**

3. **RE-OPEN THE PUBLIC HEARING FOR GILL TERRACE RETIREMENT APARTMENTS II**

- A. Phil Carter advised that this hearing is for an application for to amend a Conditional Use permit to expand the parking lot at the Gill Terrace Retirement Apartments. Property is located at 9 Gill Terrace in the Village Residential Commercial District. It was recessed from the September 14, 2009 meeting in order for the applicants to provide more information regarding water drainage issues and flow toward Commonwealth Avenue. The board requested to see either the original engineering study or have an engineer present. Phil Carter administered the oath to all wishing to speak to this hearing who have not already been sworn in and reminded any who spoke previously that they are still under oath.

- B. Bernie Chenette advised that he is an engineer and toured the area with Mike Lorraine. He referred to drawings and indicated flow areas, explaining that water on the expanded parking lot would flow from the parking area to a swale then to Catch Basin #3. He said that he observed that the stone filled basin is filled with silt and used to be deeper. They will deepen the basin, put in larger stones and remove the silt from the pipe. He said that he observed no other erosion, adding that they just need to spread the flow and the drainage systems need to be maintained. He will submit a memo and drawing explaining his findings. He added that in an unrelated issue, the Best Western, the catch basin is part of the newer project and there was a pipe that was supposed to be capped and was not completely sealed. That will be fixed. There is also a tree that fell into the diversion ditch and that will be removed. In general, other than the pipe that needs to be capped, these are all maintenance issues.
- C. Richard Harrison said that at the last meeting, a woman, on Commonwealth, said that water was coming down all over the bank.
- D. Bernie Chenette said that he went to her house, but she was not home. He said that he could see some brook erosion that is probably related to previous flooding, but he could not see through the trees to see the other areas. He added that they walked along the stonewall, but did not see damage.
- E. Troy Adams asked if there is a maintenance agreement for the facility.
- F. Mike Lorraine said it would be incorporated into their regular maintenance routines. They will remove the tree. There will still be natural water flow to that wall.
- G. Richard Harrison said there were big pines there that were cut down and that allows more water to pass.
- H. Bernie Chenette said that the area is well vegetated and that slows the flow.
- I. Phil Carter said that they need to ascertain that there will be regular maintenance. That would be a condition of a permit.
- J. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

4. **OPEN THE PUBLIC HEARING FOR RICHARD CORSETTI**

- A. Phil Carter advised that this hearing is for an application for to amend a Conditional Use permit to increase seating and have outside service. Property is located at 82 Andover in the Village Residential Commercial District. This hearing was recessed from the September 14th meeting due to litigation issues between the property owner and applicant.
- B. Rose Goings advised that the property owner, Patti Carter, had come to her office on Thursday and the issues have not been resolved.
- C. **MOTION by Julie Nicoll and seconded by Troy Adams to recess this hearing until the November 9, 2009 meeting. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR SUSAN PATKIN**

- A. Phil Carter advised that this is an application to amend a Planned Unit Development and to add a mudroom, ski closet and deck to a Trailside Unit. The property is located at 262 Okemo Trailside Extension, Unit 31A in the Mountain Recreation District.
- B. Rose Goings advised that this is application 128-98-PRD, Amendment #21. Posted in the Town Hall bulletin boards September 25, 2009, advertised in THE VERMONT JOURNAL on September 30, 2009, and the abutting property owners were notified on October 8, 2009. She advised that no

one is present for this hearing. She added that Greg Mauriello is the attorney and Ted Stryhas is the builder.

- C. Phil Carter advised that, for the record, this is a frequently requested amendment and the board has heard at least 2 dozen of them. The homeowners want to enclose the existing deck and make a mudroom. This does not change the footprint or add to the height of the building. Colors and design must conform to the condominium by laws.
- D. **MOTION by Julie Nicoll and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

6. **OPEN THE PUBLIC HEARING FOR LUZENAC AMERICA, INC.**

- A. Phil Carter advised that this hearing is an application to amend a Conditional Use permit to allow for storm drainage improvements in the shipping and mill areas. Property is located at 73 East Hill Road in the Industrial District.
- B. Rose Goings advised that this is application 319-07-CU, Amendment #1. Posted in the Town Hall bulletin boards September 25, 2009, advertised in THE VERMONT JOURNAL on September 30, 2009, and the abutting property owners were notified on September 25, 2009. All required letters are in.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Robin Reilly advised that there are drainage issues and the applicant wishes to correct them. She referred to a drawing and indicated the areas of concern. She added that the repairs will direct drainage away from parking areas and areas where people walk. She said that a catch basin would be added by the rail siding that would flow into the existing drainage system and added that the area by the mill will be graded to a 2% grade.
- E. **MOTION by Julie Nicoll and seconded by Troy Adams to close this. Motion passed unanimously.**

7. **OPEN THE PUBLIC HEARING FOR LUZENAC AMERICA, INC.**

- A. Phil Carter advised that this hearing is an application for local Act 250 Review. It is a new DRB process and not a full Act 250 hearing. State Statute requires the DRB to consider the impact of a project on education, municipal services and conformance to the town plan.
- B. Rose Goings advised that this is application 319-07-Act 250 Review. Posted in the Town Hall bulletin boards September 25, 2009, advertised in THE VERMONT JOURNAL on September 30, 2009, and the abutting property owners were notified on September 25, 2009.
- C. Phil Carter advised that this project has no impact on education, municipal services or conformance to town plan. And the DRB may waive the criterion for review if there is no impact.
- D. **MOTION by Julie Nicoll and seconded by Richard Harrison to close this hearing.**

8. **OPEN THE PUBLIC HEARING FOR CARL AND NANCY SPATOLA**

- A. Phil Carter advised that this hearing is an application to request a variance to allow the applicants to keep the porch and new roof on the front of the residence. Property is located at 84 Pleasant Street in the Village Residential Commercial District.
- B. Rose Goings advised that this is application 320-10-VA. Posted in the Town Hall bulletin boards September 25, 2009, advertised in THE VERMONT JOURNAL on September 30, 2009, and the

abutting property owners were notified on October 8, 2009. Several letters are in, as well as the applicant's response to the 5 Criterion.

- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Carl Spatola advised that originally, the house had a 3' x 4' platform with no roof and 2 steps up from the ground to enter the front door. It was a safety issue in the winter. Also, a member of his family is wheel chair bound and the platform was not big enough to accommodate it. He expanded the platform and added a roof so snow would fall into the driveway.
- E. Phil Carter noted that the platform is now 9'7" x 4', including the steps. The roof covers it with a slight overhang.
- F. Carl Spatola said that the front door is the only access to the house in the winter.
- G. Phil Carter said that the variance is to the setback to the front sidewalk. He added that the state and town have the same variance requirements with regard to the 5 criteria. The applicant has responded and the board will consider the responses.
- H. Carl Spatola read the responses.
- I. Richard Harrison said the porch looks nice, but there was a violation, as the applicant did not apply for a permit to build it.
- J. Linda Petty asked how the change deferred the plowing from going onto the new porch.
- K. David Starkey said that he lives on Pleasant Street and has a similar porch and the plowman redirects the snow away from the porch.
- L. Donald Dowling said that he also has a similar setup. The applicant did a nice job and he is here to support him. He keeps an eye on that house when the Spatolas are not in Vermont.
- M. Troy Adams asked, with regard to question #5, why it was not feasible to cover the back entrance.
- N. Carl Spatola said that then he would have to have the whole area plowed. They only use that entrance in the summer and in the winter there is always 3 feet of snow and ice on that back deck. They can't get back there in the winter.
- O. Phil Carter administered the oath to Francis Broza.
- P. Francis Broza said that he looked at the property and it would be tough to plow back to the back entrance. The porch looks good.
- Q. Carl Spatola said that if he covered the back deck, he would have to remove the upper level deck with sliding doors that is in the back.
- R. David Starkey said the porch improved the neighborhood.
- S. Richard Harrison asked Carl Spatola to describe the family hardships.
- T. Carl Spatola said that his aunt is in a wheel chair and his parents are in their 70's. They could easily slip on the ice. Also, his wife and son have slipped. He did it for safety and it enhanced the neighborhood.
- U. Carol Starkey said that it allows them to have room to maneuver a wheelchair, where they could not before.
- V. Carl Spatola said that he also widened the front door from 30" to 36" and that helps with the wheelchair.
- W. Arlene Dowling said that it is not possible for the applicants to use the back entrance in the winter. They needed to fix the front.
- X. Carl Spatola said that he is sorry that he did not get a permit first. He did not know he needed one.
- Y. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

9. **OTHER BUSINESS**

- A. There was no other business.

10. **REVIEW AND APPROVE MINUTES**

- A. Phil Carter advised that the minutes to be reviewed and approved are from September 14, 2009.
 - i. Page 5 – I – clarification – that should be they.
 - ii. Page 3 – 4D – Troy Adams had a question regarding the hours of operation 12:00 p.m. to 6 p.m.
 - iii. Phil Carter said that would need to be clarified at the next meeting.
 - iv. It was agreed to table the minutes to the next hearing for clarification.

11. **DELIBERATIVE SESSION**

- A. Phil Carter asked if they would like to go into Deliberative Session.
- B. **MOTION by Troy Adams and seconded by Julie Nicoll to enter into Deliberative Session. Motion passed unanimously.**
- C. Board entered Deliberative Session at 7:05 p.m.

Respectfully submitted,
Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

Troy Adams

Linda Petty

Richard Harrison