

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

May 14, 2012

MEMBERS PRESENT:

Phil Carter	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Ray Ahern	Warren Eastwick	Steve Stariknok
Peter Alberti	Glenn Heitsmith	Mark Williams
Betsy Andrade	Eric Lever	Lisha Klaiber, Recorder
Scott Baitz	Leslie Lever	Duncan Love – LPC-TV
Faith Eastwick	Jean Morrill	

1. **CALL TO ORDER**

A. Meeting opened at 6:01 p.m. by Chair, Phil Carter. All members present.

2. **OPEN THE PUBLIC HEARING FOR PANARELLO'S BISTRO**

- A. Phil Carter advised that this is an application to amend a Conditional Use permit and flood hazard review to build a deck in the flood zone and to allow for outside seating. The property is located at 31 Route 103 South in the Special Flood Area of the Town Residential Commercial District.
- B. Rose Goings advised that this is application 89-226-CU, Amendment #3 and 360-12-FHR. Posted on the Town Hall bulletin boards on April 19, 2012, advertised in THE VERMONT JOURNAL on April 25, 2012 and abutting property owners were notified on April 19, 2012. Phil Carter administered the oath to all wishing to speak at this hearing.
- C. Mark Williams advised that Panarello's would like to put a deck off the bar area of the restaurant with outside seating at grade level. They will remove 4 tables from the upstairs inside dining area and put them on the deck. Seating will be for 16 people. This is not additional seating.
- D. Phil Carter asked if this is on the northwest side of the building.
- E. Mark Williams said yes.
- F. Phil Carter asked if they would be extending the deck further than the existing entrance. Would it be beyond the footprint in the back?
- G. Mark Williams said they would square it right off.
- H. Phil Carter read from a letter from Rebecca Pfeiffer from the State DEC. She advised that the patio must be at grade level for the site. Outdoor chairs and tables should be secured if they are not used on a regular basis or stored inside if they are not going to be used for long periods of time. The patio should be constructed of flood resistant materials and should be properly anchored in place.

- I. Richard Harrison asked about evening lighting.
- J. Mark Williams said that they will do whatever they are permitted to do. There are spotlights on the corners now and lighting should not be an issue.
- K. Phil Carter advised Mark Williams to start with Rose Goings regarding questions about lighting. There should be no distracting lighting. The zoning regulations have specific language about this. He asked about railing around the patio.
- L. Julie Nicoll noted that if they are serving alcohol, there must be a railing around the area.
- M. John Boehrer said there must be a barrier between the area and the parking lot.
- N. Julie Nicoll said that a string or rope is not sufficient.
- O. Phil Carter suggested that Mark Williams ask Rebecca Pfeiffer what kind of barrier is acceptable.
- P. John Boehrer asked about an awning.
- Q. Mark Williams said they have no plans for an awning on the patio at this time.
- R. John Boehrer asked how they would access the patio.
- S. Mark Williams said access would be through the restaurant bar area. They will build a door. People won't be able to leave without going through the restaurant.
- T. John Boehrer asked if Chief Billings would have any reason to be concerned about noise after 10:00 p.m.
- U. Mark Williams said no.
- V. Glenn Heitsmith advised that he is a neighbor and said that anything this board can do to promote successful businesses in town is great and he supports this project.
- W. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

3. **OPEN THE HEARING FOR BROOKHAVEN COA**

- A. Phil Carter advised that this is an application to amend a Conditional Use permit and Flood Hazard Review to construct a deck and a fence around an existing pool. The property is located at 32 Route 103 South in the Special Flood Area of the Town Residential Commercial District.
- B. Rose Goings advised that this is application 361-12-FHR and 84-98-CU, Amendment #4. Posted on the Town Hall bulletin boards on April 19, 2012, advertised in THE VERMONT JOURNAL on April 25, 2012 and abutting property owners were notified on April 19, 2012.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Steve Stariknok advised that the owner wishes to replace the existing deck with one that is exactly the same. They also need to put a fence around the pool. The frame of the deck would be subgrade. The state does not like chain link fences, but that would be the easiest way to anchor the fence in cement with a center link that would break away in a storm.
- E. Phil Carter asked about anchoring the deck.
- F. Steve Stariknok said the pool holds 40,000 gallons of water. They will dig down 48" for the posts and it would be a 3/16" link chain to anchor it. There should not be any obstructions. The deck is heavy and should not be a problem.
- G. Linda Petty asked what happened to the old deck.
- H. Steve Stariknok said it is still there, but they need to replace it.
- I. Richard Harrison suggested that Steve Stariknok call the Army Corps of Engineers as they are familiar with the area.
- J. Phil Carter read from the letter from Rebecca Pfeiffer regarding requirements for the new fence. "...whatever type of fence is reinstalled would be anchored to withstand the base flood forces on the site in addition to demonstrating that the new fence would not be an obstruction to flood waters during flooding. A chain link fence essentially acts like a new during flooding, catching debris and slowing down flood waters." He advised Steve Stariknok that

the DRB must have approval from the State and FEMA to approve this permit. You must satisfy the state and the DRB. He suggested that Steve Stariknok talk to a fence company and also talk to Rebecca Pfeiffer and ask her what would be acceptable to the state. You would need a fence that would satisfy the requirements for the pool and also be break-away.

- K. Scott Baitz said that he would go to Springfield Fence for ideas.
- L. Phil Carter said that contacting the Army Corps of Engineers is optional. He added that this board must protect the town's insurance and may not approve a permit that does not comply with the state. He added that these are hot button issues with the state now and you are probably not the first with this issue.
- M. Rose Goings asked if the board could allow them to build the deck portion of the permit.
- N. Phil Carter said the board may close the hearing contingent upon fence approval from the State and FEMA.
- O. **MOTION by Julie Nicoll and seconded by Linda Petty to close the hearing contingent upon fence approval from the State and FEMA. Motion passed unanimously.**
- P. Glenn Heitsmith said he was disturbed to hear that 5 dumpsters were left in the river.
- Q. Scott Baitz said that he returned them where they came from and they are in the same place as prior to Irene.
- R. Phil Carter said that this board does not have the authority to go to the property owner. That would be either the Select Board or Village Trustees.
- S. Richard Harrison said that all liquid propane tanks should be cabled down.

4. **OPEN THE PUBLIC HEARING FOR THOMAS AND DIANA MAGUIRE**

- A. Phil Carter advised that this is an application to amend a Planned Residential Development permit to allow for a mudroom addition located at 57 Trailside Lower IV in the Mountain Recreation District.
- B. Rose Goings advised that this is application 128-98-PRD, Amendment #29. Posted in the Town Hall bulletin boards April 19, 2012, advertised in THE VERMONT JOURNAL on April 25, 2012 and abutting property owners were notified on April 19, 2012. .
- C. Phil Carter administered the oath to all wishing to speak at this hearing. Phil Carter advised that the DRB has heard this application for other units many times.
- D. Peter Alberti advised that the applicant wishes to enclose the entry deck as permitted there previously for other units.
- E. Phil Carter asked how many more are there.
- F. Peter Alberti said about 75.
- G. Phil Carter verified that there would be no change in the footprint.
- H. Linda Petty referred to the drawing and noted that it appears that they are expanding with a new concrete footing.
- I. Peter Alberti said the roofline does extend over the entry deck. Yes it is bigger than the original footprint.
- J. Richard Harrison asked if there are any more changes.
- K. Peter Alberti said all of the mudrooms are exactly the same as what is on this drawing.
- L. Phil Carter asked if the board needs to pull the permit and look at the density.
- M. Rose Goings said they are not adding a unit. She does not think there is any reason to pull the permit.
- N. Julie Nicoll said that this board has always been told that there would not be any change to the footprint.
- O. Peter Alberti said it is about 10 feet.
- P. John Boehrer asked if this is a stock drawing used on all of these projects.
- Q. Peter Alberti said that all of the end units are the same.

- R. **MOTION by Richard Harrison and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR RAY AND SHARLENE AHERN**

- A. Phil Carter advised that this is an application to subdivide one parcel into five (5) parcels. Property is located at 27 Sears Farm Road in the Town Residential Commercial District.
- B. Rose Goings advised that this is application SUB-12-005. Posted in the Town Hall bulletin boards April 19, 2012, advertised in THE VERMONT JOURNAL on April 25, 2012 and abutting property owners were notified on April 19, 2012. She noted that at this time there is no one here to represent the applicants.
- C. Phil Carter administered the oath to all wishing to speak at this hearing. Phil Carter read from the drawing and paperwork and advised that this is an application for a proposed subdivision in the RC District to create 5 lots from one lot.
- i. Lot #1 – is existing and developed. It would be 42,468 square feet and would be accessed from Sears Farm Road
 - ii. Lot #2 – would be 43,166 square feet and accessed from Rod and Gun Club Road
 - iii. Lot #3 – would be 43,639 square feet and accessed from Rod and Gun Club Road
 - iv. Lot #4 – would be 43,946 square feet and accessed from Rod and Gun Club Road
 - v. Lot #5 – would be 47,480 square feet and would be accessed from a 50 ROW
- D. Rose Goings noted that the drawing indicated that the suggested drive for Lots 4 and 5 is a 20 ROW.
- E. Linda Petty noted that well shields are not shown on the drawing
- F. Phil Carter explained that the DRB requires that well shields not encroach on neighbors' properties. The well shield is the radius around a well that is protected. This board does not allow well shields to encroach on the property of others.
- G. Jean Morrill said that a well shield is encroaching on her property.
- H. Rose Goings said that that particular case did not come before the DRB.
- I. Phil Carter said there is currently language in the state legislature pertaining to well shields because it actually happened to someone high up in the state.
- J. Phil Carter administered the oath to Ray Ahern. and told him what the board had discussed so far and about the well shields.
- K. Ray Ahern said that Steve Mungeon had perked the land.
- L. Richard Harrison said the engineer usually shows the well shields on the drawings.
- M. Phil Carter said that this board traditionally does not allow a well shield to encumber land outside of the project. He then asked about access to lots 2, 3, and 4.
- N. Ray Ahern said they all merge into one driveway onto Rod and Gun Club Road. He then pointed to the well locations. He said that you have to go through lot 2 to get to lot 5.
- O. Phil Carter said that Ray Ahern will need to get Steve Mungeon in to this board. We need to verify the well shields, driveway access and the ROW. The drawing must be 100% correct.
- P. Richard Harrison said that he feels that lot #5 crowds lots 2, 3 and 4.
- Q. Ray Ahern said they could just take the front 3 lots, 2, 3, and 4 and get rid of lot 5.
- R. Phil Carter said needs to have the map redone to show driveway access to the road, well shields and clean up the ROW.
- S. Warren Eastwick said that people have no idea how it is living on Road and Gun Club Road. It's like a small war. People are mixing gunpowder with plastique and shoot at it. He has called the police and they say there is nothing wrong going on. Anyone purchasing these lots should know about it. He is very concerned about what type of houses would be built. He is concerned about trees being cut and wildlife. The area would be wiped out and it would change the complexion of Rod and Gun Club Road. Also, Rod and Gun Club Road is muddy in the spring and cannot take the additional traffic. The bridge at the end of the road is in bad

shape and he does not know if the town has the money to fix it. Access to Route 100 from Rod and Gun Club Road is already bad. The state put up a mirror and it helps, but more traffic would make it worse. There is a bank there where water accumulates in the heavy rain and the water makes holes in his driveway. He read from the town manual saying that a subdivision cannot destroy natural wildlife areas. This would annihilate it and would also affect the water table. Cook's Pond is half on that property and septic on that property would go into the pond. Rod and Gun Club Road is already too noisy, muddy, there is run off and there is too much traffic. To approve this project would be ridiculous.

- T. Phil Carter advised that there is also a letter from Shirley Brand also opposing the subdivision.
- U. Warren Eastwick said that the woman from the Bureau of Land Management in Montpelier said that they would have to have a guarantee that our wells would be safe. He read from the regulations regarding rural character, overcrowding, preservation of wildlife habitats, trees ,adverse impact on fragile areas, storm water runoff, preservation of open space, the road along his ROW has to be 50-foot wide and also that they must have a turnaround for emergency vehicle access.
- V. Phil Carter said that Mr. Ahern has testified that he will do away with the ROW.
- W. Ray Ahern said that when you sell property you must disclose all aspects of the land. He will have covenants to say no mobile homes.
- X. Phil Carter said that this board would need to see the covenants. We look at everything. We need the PE here to talk about hydrology and to attest as to what happens to the water.
- Y. Eric Lever said it would drastically change the environment.
- Z. Betsy Arcade said that the biggest part of this is the wildlife, tranquility and peace. This is not the right place for a subdivision.
- AA. Ray Ahern said that it meets the town requirements.
- BB. Phil Carter said that right now, we do not know that for sure. We need to have Steve Mungeon here to discuss hydrology and soil types.
- CC. Richard Harrison asked how many activities the Rod and Gun Club has during the summer.
- DD. Warren Eastwick said that Arbuckle's has been using their building, but the lease ended May 15th. There is regular skeet shooting at the range say or night. We have no way of knowing who's up there. There is also a fishing derby once a year.
- EE. Phil Carter said there is also a letter from the Rod and Gun Club to make sure that new owners are notified of the conditions of the area. Phil Carter said this is standard for them and it would go into the permit. Phil Carter said the following items are required for the next meeting:
- i. new preliminary drawing
 - ii. well shield locations and dimensions
 - iii. driveway access
 - iv. get rid of the ROW
 - v. covenants
 - vi. traffic impact
 - vii. get a letter from Chief Billings weighing in on safety and traffic at that location
 - viii. letter from Ron Tarbell, the highway foreman advising if the road can take more traffic
 - ix. hydrology report
 - x. have the engineer get a state wetlands map and wildlife maps to locate possible wetlands, deer and bear areas
 - xi. reports from the test wells
- FF. **MOTION by Julie Nicoll and seconded by Richard Harrison to recess this hearing for one month, June 11, 2012.**

- GG. Phil Carter advised Mr. Ahern that if they are not ready in a month, they can call Rose Goings for an extension.
- HH. **Motion passed unanimously.**
- II. Phil Carter advised Ray Ahern to have Steve Mungeon call Rose Goings for clarification.

6. **OTHER BUSINESS**

- A. **Winterplace COA**
 - i. Phil Carter said that the applicant sent a letter dated April 2, 2012 requesting an extension of hearing 081-94-PUD, Amendment #6, Buildings U, V and W for one year due to the economic slowdown.
 - ii. Julie Nicoll asked if this is the 2nd or 3rd extension.
 - iii. Rose Goings said the 2nd.
 - iv. **Phil Carter called for an up/down vote on this and the board unanimously approved the request.**

7. **REVIEW MINUTES**

- A. Phil Carter advised that the minutes from the April 9, 2012 meeting are to be reviewed.
- B. Board decided to table this until the next meeting.

8. **ADJOURN**

- A. **MOTION by John Boehrer and seconded by Julie Nicoll to adjourn. Motion passed unanimously.**
- B. Board entered Deliberative Session at 7:23 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison