

**DEVELOPMENTAL REVIEW BOARD  
MINUTES**

***Regular Meeting***

***April 11, 2016***

**MEMBERS PRESENT:**

Phil Carter	Julie Nicoll
John Boehrer	Linda Petty

**MEMBERS ABSENT:**

Richard Harrison

**STAFF PRESENT:**

Rose Goings

**OTHERS PRESENT:**

Betty Allen	Jon Hiller	Kevin Theissen
Roger Allen	Casey Hodge	Ronald Theissen
Bill Dakin	John Kennelly	Harry Welch
John Donohue	Dan McSweeney	Andrew Gable White
Rosa Donohue	Jon Orzolek	Fred Marin - LPCTV
Bob Gilmore	Gary Peck	Lisha Klaiber, Recorder

1. **CALL TO ORDER**

A. Meeting opened at 6:00 p.m. by Phil Carter. All members present, except Richard Harrison.

2. **OPEN THE PUBLIC HEARING FOR ELIZABETH WELCH & GARY PECK**

- A. Phil Carter advised that this is an application to consider a subdivision permit to join two existing lots and a portion of a third lot to make one single lot. The project is located Town Farm Road in the Town Residential District.
- B. Rose Goings advised that the first application is SUB16-004. Application was posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board, the Post Office Bulletin Board and the website on March 18, 2016, advertised in THE VERMONT JOURNAL on March 23, 2016 and abutting property owners were notified on March 18, 2016.
- C. Phil Carter administered the oath to all (Gary Peck and Harry Welch) wishing to speak at this hearing.
- D. Gary Peck advised that they want to create a single lot for a future house.
- E. Phil Carter asked Gary Peck to describe what they will be doing.
- F. Gary Peck said that they have purchased approximately 34 acres.
- G. Phil Carter read from evidence submitted, noting that Lot #1 is 10.35 acres, Lot #2 is 18.66 acres and the portion of the third lot is 4.96 acres, for a total single deeded lot of 33.97 acres. He asked the applicants if this is correct.
- H. Gary Peck said yes.

- I. Rose Goings advised that a State Waste Water permit had been waived as they are not applying for a septic permit at this time. When they do build, they will need to obtain the State Waste Water permit. She also advised that the applicants have a Mylar with them tonight.
- J. Phil Carter asked if the property has any existing structures.
- K. Gary Peck said no.
- L. Phil Carter noted that the drawing shows a dug well on the north end of the 18.66 acre lot and asked of the applicants were aware of it.
- M. Gary Peck said that he does not know about it and that maybe it was from a long time ago. The ground up it wet there now.
- N. Phil Carter asked if the access to the property would be from Town Farm Road.
- O. Gary Peck said yes.
- P. **Phil Carter advised the board that the applicants have requested an UP/DOWN vote and polled the board for agreement. The board members agreed to the UP/DOWN vote.**
- Q. **Phil Carter asked ALL IN FAVOR. The board unanimously approved the application.**
- R. Phil Carter said that he would sign the Mylar.

3. **OPEN THE PUBLIC HEARING FOR KEVIN THEISSEN – SKYGATE FINANCIAL**

- A. Phil Carter advised that this is an application to amend a conditional use permit to change the retail space into office space. The project is located at 211 Main Street in the Village Residential Commercial District.
- B. Rose Goings advised that this application is 185-01-CU, Amendment #3. The application was posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board, the Post Office Bulletin Board and on the website on March 18, 2016, advertised in THE VERMONT JOURNAL on March 23, 2016 and abutting property owners were notified on March 18, 2016. She noted that letters from the Police, Fire and Ambulance Departments are all in.
- C. Phil Carter administered the oath to all (Bill Dakin, Kevin Theissen and Ronald Theissen) wishing to speak at this hearing.
- D. Bill Dakin advised that this application is for a change of use from retail to professional office space. The applicants, Skygate Financial currently have an office in Chester and wish to open an office in Ludlow. The existing upstairs apartment will remain. There will be no external changes, adequate parking is available and they will apply for a sign permit.
- E. Phil Carter asked if the external footprint would be the same.
- F. Ronald Theissen said there would not be a change in the footprint.
- G. Phil Carter asked about the ice cream stand in the back.
- H. Bill Dakin said it is gone and will not return. He added that the parking is existing and there would not be a demand for additional parking. He said there is space for turn-arounds in the back.
- I. Phil Carter asked if there is a sign directing people to where their parking is.
- J. Bill Dakin said no.
- K. Phil Carter asked if that would be a hardship.
- L. Kevin Theissen said no.
- M. Phil Carter said that the board would want to be sure that they would not infringe on Shaw's parking lot.
- N. Bill Dakin said that one of the previous conditions to that property was that parking not be at Shaw's. This would not be an issue of contention.
- O. Phil Carter asked about the rental apartment.
- P. Bill Dakin said it would remain the same.

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- Q. Phil Carter verified the following that: the change of use would be from Retail to office space and the apartment would remain as an apartment. He asked about the barn out back.
- R. Ronald Theissen said they would not be any changes at this time. They may restore it later.
- S. Linda Petty asked the number of employees using parking spaces.
- T. Ronald Theissen said 2 principals and 1 other employee.
- U. Linda Petty noted that would be 3 cars.
- V. Bill Dakin said that the principals would travel between the Chester office and the Ludlow office and they would have scheduled appointments with clients.
- W. John Boehrer asked the hours of operation.
- X. Kevin Theissen suggested Monday through Friday, 9:00 A.M. to 5:00 P.M.
- Y. John Boehrer asked if there ever would be a potential for weekends.
- Z. Ronald Theissen said rarely, but maybe.
- AA. John Boehrer advised that what they set here would be in the permit.
- BB. Bill Dakin said that the principals may come in on the weekends and that Ludlow is a vacation community and people may want to come in on weekends or after 5:00 P.M.
- CC. Phil Carter suggested that if they expand the hours of operation now, they will not have to come back to change the permit.
- DD. Bill Dakin suggested hours of operation be seven days per week, from 8:00 A.M. to 10:00 p.m. This leaves the applicants the option to schedule later appointments.
- EE. Phil Carter said these hours would cover the applicants.
- FF. Bill Dakin asked for a decision of record.
- GG. **Phil Carter advised the board that the applicants have requested an UP/DOWN vote and polled the board for agreement. The board members agreed to the UP/DOWN vote.**
- HH. **Phil Carter asked ALL IN FAVOR. The board unanimously approved the application.**

4. **OPEN THE PUBLIC HEARING FOR THE 5 SPOT LLC**

- A. Phil Carter advised that this is an application consider an amendment to a Conditional Use permit to change the previously permitted space for a laundromat into a bar and grill with thirty (30) seats. The project is located at 6 Andover Street in the Village Residential Commercial District.
- B. Rose Goings advised this is application is 286-05-CU, Amendment #3 The application was posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board, the Post Office Bulletin Board and on the website on March 18, 2016, advertised in THE VERMONT JOURNAL on March 23, 2016 and abutting property owners were notified on March 18, 2016. She noted that letters from the Police and Ambulance Departments are in, but the Fire Department letter was not it.
- C. Phil Carter advised the persons here for this hearing, that for clarification, the DRB is on the record and the court holds it to higher standards. He said that testimonies are under oath and the courts look at what we do here. He asked that all persons address questions and comments to the board and that the DRB will control the discussion. He asked that persons wishing to speak give their name before speaking for the record.
- D. Phil Carter administered the oath to all (Betty Allen, Roger Allen, John Donohue, Rosa Donohue, Bob Gilmore, Jon Hiller, Casey Hodge, John Kennelly, Dan McSweeney, Jon Orzolek, Andrew Gable White) wishing to speak at this hearing.
- E. Andrew Gable White advised that he wished to move his business from 145 Main Street to the location at 6 Andover Street. He will have a small bar menu, 2 pool tables, video games, a juke box, live entertainment and have the same business practices as in his current location.
- F. Phil Carter asked the hours of operation.

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- G. Andrew Gable White said his current hours of operation are from 5:00 p.m. to 2:00 a.m., 6 days per week, but that he wishes to change that to 7:00 to 12:00 a.m. weekdays, closed on Mondays and Thursday through Saturday, 7:00 to 2:00 a.m.
- H. Phil Carter asked if he would be doing any renovations.
- I. Andrew Gable White said there would not be any exterior changes. He will paint the interior, put in a bar, put up a wall to cordon off the kitchen area and do flooring.
- J. Phil Carter asked if the front door would be for entrance and exit.
- K. Andrew Gable White said there is also a rear door for people coming in from the back parking area.
- L. John Boehrer asked if there would be 5 parking spots in the front and also 5 in the rear.
- M. Andrew Gable White said yes.
- N. John Boehrer asked if there would be any other vehicles.
- O. Andrew Gable White said no.
- P. Phil Carter asked how they would access the rear parking lot.
- Q. Andrew Gable White said from the ROW off Pleasant Street.
- R. Phil Carter asked how people would know about the rear parking area.
- S. Andrew Gable White said they can put a sign in the front directing cars to the rear. He said there are 2 entrances; one on Andover. He said there is access to the Handicapped baths and another door to the corridor and signs.
- T. Phil Carter asked about his business model.
- U. Andrew Gable White said it is a Cheers type bar for all ages and socioeconomic groups, mostly locals. This year was bad, with no snow, but he hopes to get more people to come there. It is a safe place. The only complaints have been on the first night he opened and this past New Year's Eve.
- V. Phil Carter asked if there would be 30 seats.
- W. Andrew Gable White said yes.
- X. Phil Carter asked about the kitchen.
- Y. Andrew Gable White said it would be toward the back.
- Z. Phil Carter said that the State Fire Marshall (Labor & Industry, L&I) would determine what would be needed for that.
- AA. Andrew Gable White said he would contact them.
- BB. Phil Carter confirmed that they would have 2 pool tables, video games, a bar and kitchen, a juke box and live bands.
- CC. Andrew Gable White said that he will need a State Entertainment Permit. He said that the owners and the Mill condo association have by-laws and that they say no music. The town would give us a permit.
- DD. Phil Carter asked what kind of music they would have.
- EE. Andrew Gable White said normal cover bands, classic rock, and typical bar bands.
- FF. John Kennelly said that he represents the Donohues who live at 8 Pleasant Street and the testimony regarding access through the rear door, using the ROW is a concern. The ROW is 12 feet wide, with normal a travel lane of 8 feet wide. According to Section 520 of the by-laws, you require a 20 foot ROW. He added that the 5 spaces in back are not delineated and not paved. He said that other property owners have had disputes over parking there. It is a very narrow way and access is a problem. He added that a bar, open until 12:00 a.m. or 2:00 p.m. would destroy the character of the neighborhood, which has always been quiet, without bands or a jukebox. There would also be a problem with the noise from people walking back to the parking lot. They are concerned about signs, noise, and the character of the neighborhood. He added that for a building lot of about 7,500 square feet, normally 30 parking spaces would be required. He submitted pictures of the back area and ROW. The ROW does not access the property. He said that people would be exiting late at night and it would be even noisier with cars pulling out and doors closing. It would destroy the quiet of the area. He said that even Police Chief Billings

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- noted that the rear parking area may cause issues with the neighbors. He said that this is not an appropriate use of the space in that neighborhood.
- GG. John Donohue said that the driveway is only 12 feet wide – very narrow and rarely used at night. He feels that if it is used, he and his wife will be woken up. He said the loud music will be noisy and there will be the noise of cars crunching as they pull in and out of the driveway. He said the parking area is very tight. He said that the bar now stays open later than all of the others in town and is not like any other. He said that people leaving restaurants will go to this bar after the others close. He said that in the spring and summer, his windows are open and the noise will disturb them. He said that even when it was a laundromat, there were disputes over parking. He said that people will park anywhere, signs or not. He added that in heavy rains, the parking spaces will be underwater. He thinks that closing time at night will be raucous and added that that area is like an echo chamber. He advised that a couple of years ago, a hanging basket was pulled down by someone coming out of the 5 Spot. The noise will make this area an unacceptable environment and not compatible with the neighborhood.
- HH. Andrew Gable White said that to his knowledge there have only been 2 occasions for noise complaints against the 5 Spot. The state inspected and the events were deemed not issues at the 5 Spot. There are 3 bars in Ludlow and all 3 have hours until 2:00 a.m. He asked the board to look at his record. He said that he is usually there 6 days per week and bartends 3 days per week.
- II. Bob Gilmore said that he lives at #3 Pleasant Street and said that the whole application has problems. He said that he agrees with the Donohues about the noise. He advised that when Okemo rents the house across the street, in the winter, there is no real noise problem. But, in the summer when Weston Playhouse rents, the crew comes back from the shows and sits outside after the shows. You can hear the conversations. He thinks that the parking will be inadequate for 30 people. He said that he does not know why Chief Billings signed off on this. He said that even in the front, people will be backing out of the parking spaces onto Route 100 at night. He added that he does not want signs in front of his house directing people to the parking area. He said that he can envision the overflow people parking on Pleasant Street, maybe even on both sides. He said that when he ran his restaurant, he had to go through hoops for parking.
- JJ. Andrew Gable White said that his parking needs were designate by square footage. He added that there is also a municipal parking lot across the street and people can park there. He said at most, it is him and 2 other employees and for the last month, just him.
- KK. Phil Carter said that if we took the parking issue off the table, what would happen. He said that the DRB has always allowed people in this situation to use public parking and parking on the street. We could make no parking in the rear parking area a condition of the permit. If that happens, what concerns are left?
- LL. Dan McSweeney said there would still be a rear entrance and people will use it.
- MM. Phil Carter said L&I may require it for emergencies. They will still determine if this project is feasible, if they can have a kitchen, and how many people they can have. He said that, historically, the DRB had not required businesses to provide their own parking. There is parking on Main Street and in the municipal lot.
- NN. Dan McSweeney said that he does not see any other bars open until 2:00 a.m. and have live music. Noise is still an issue. He said that he does not feel that location is the right place. He is concerned about them having a kitchen, where the dumpsters will be and what they will do about snow removal. He is also concerned about the side entrance on Andover and that naturally, people will park there. They will end up parking in Pleasant Street. He does not think people will walk the distance to the municipal lot.
- OO. Casey Hodge said the municipal lot is right across the street. He said that with the concrete buildings, sound probably would not penetrate into the back. He said, in its current location, the tenants are right above the bar. The people who go there are locals and not rowdy or loud. They are safe and quiet. He added that Killarney is open until 2:00 a.m., has music and no complaints.

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- PP. Bob Gilmore said that his house is 22 feet away.
- QQ. Casey Hodge said most of the concerns seem to be about the back lot, if that was not used, Pleasant Street will not be an issue. He added that the Loft and Outback are also open until 2:00 a.m., have music and houses nearby. He said that the 5 Spot will only use about 1,000 square feet of the building.
- RR. Rose Goings said that she was told by Andrew Gable White that it would be 1,500 square feet.
- SS. Bob Gilmore said that the Trustees lease the municipal lot and sign it yearly. He supports it and finds it problematic that Andrew Gable White will have to direct people over there. It is not practical.
- TT. Casey Hodge said that the Downtown Grocery directs its customers to that lot.
- UU. Andrew Gable White said he would like to suggest that the DRB remove rear parking from the application. It is not really an issue to point someone to the municipal lot. He said there is also parking on Main Street. He can see the concerns of the neighbors, but he does not think there will be an issue. He does not have noise complaints. He said that people are saying they are pro-business, but they are trying to shoot this one down.
- VV. Phil Carter said that the 5 Spot currently does not have live music.
- WW. Andrew Gable White said not in the last few months because they do not have an entertainment permit. He would have one, but the board of the Mill and the COA cannot come to terms. He said he does have a jukebox and did have some bands there this past winter. He said that there will not be people walking up and down the street making noise.
- XX. John Kennelly asked if they remove the use of the rear parking area, what about the ROW issue.
- YY. Phil Carter said we need to get L&I involved first. He said that only after we find out what they will require, can this board make a decision.
- ZZ. Dan McSweeney asked if once the use has changed, will it stay that way.
- AAA. Phil Carter said yes, until it is changed again.
- BBB. Dan McSweeney said if he were going to that bar location, he would park on Pleasant Street. He added that when he said that no other bars were open until 2:00 a.m., he meant "in town." He said that Killarney is about ½ mile away and the Outback even further.
- CCC. Phil Carter asked what's to prevent people from parking on Andover Street.
- DDD. Andrew Gable White said that he can ask his clientele not to park there. They are not problem makers. They are locals and take care of their own property. He added that he can't guarantee they will not park on Andover or that there will not be any accidents. He said that he was waiting until after getting DRB approval to contact L&I.
- EEE. Phil Carter said that this board needs to hear what L&I will require and will make that a condition of any decision we make. The DRB needs every piece of evidence that is possible. He asked Andrew Gable White if he does not get an Entertainment Permit, will he still go forward with this project.
- FFF. Andrew Gable White said he has to have the place first. He thinks the town will give him a permit. He doesn't see any reason why they wouldn't.
- GGG. Phil Carter asked if there would be smoking allowed inside.
- HHH. Andrew Gable White said no, that people would smoke outside, in front.
- III. Phil Carter asked if there would be a receptacle there.
- JJJ. Andrew Gable White said yes.
- KKK. Bob Gilmore said that he thinks that Andrew Gable White wants to move because the Mill owners' association does not want music down there. It's not compatible with the residents.
- LLL. John Donohue said the Loft closes earlier. He added that this location would be about 20 paces from his house. He does not want heavy metal music. There is no way, until it's too late to tell how this would affect us. It will change the environment and we would not be able to live there.
- MMM. John Kennelly said the 5 Spot has been in its present location for 13 months and Andrew Gable White said he would like a bigger crowd, but this has been a bad year. This location is much more of a problem.

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- NNN. Betty Allen said she agrees that this location is not in the best interests of the area for the change of use. The current use is more acceptable. If there is no parking in the back, what will be there? There have been trash issues back there and it hasn't been neat and clean. There is also the foot traffic. The ski club has a motion sensor light and when people walk by, it lights. Will there be lighting back there. She added that in the winter, the road is closed at times and is routed down Pleasant Street. She is also concerned about dumpsters.
- OOO. Andrew Gable White said we are taking the rear parking out and that alleviates 50% of the issues. He said there will always be merrymakers and "crunching gravel." He asked what really is the issue.
- PPP. Phil Carter said the location is in the Village Residential Commercial District and there is a question of the character of the area. This may or may not change that. He said that people like their houses and the way their life there is. He said that before the DRB makes a decision, it will need every piece of evidence possible.
- QQQ. Casey Hodge said that this building has been stripped of copper and appliances. He said that things in the rear have been cleaned up and he has tried to make it presentable. He said that he would not rent the space to someone that would cause problems. He said that Andrew Gable White will not have the space for more people. He said that once L&I gets involved, they may limit it to 20 people. We are trying to beautify the area. Manchester Ski Club parks back there. He said that he has tried to put up signs directing people to where there is parking and tried to communicate with the Manchester Ski Club. He said that he does not want problems with the neighbors. He said that Andrew Gable White does not have problems in his current location.
- RRR. Bob Gilmore asked about the lease.
- SSS. Casey Hodge said one year, renewable. He added that the cost at the Mill is too high for Andrew Gable White.
- TTT. Phil Carter said this board needs letters from the Fire Department and L&I.
- UUU. Andrew Gable White said he will contact them.
- VVV. Phil Carter said that LO&I will probably discuss the kitchen, number of people and hard-wired smoke detectors. We will build that all into our permit.
- WWW. John Hiller from the Manchester Ski Club said that parking is a concern to the ski club. If the rear parking is taken off the table, it may not be a resolution. We have had issues with that location in the past. It will alleviate some of our concerns if rear parking is off the table. He added that noise is also a concern. We have families staying at the club who get up early to ski. They don't want loud music at night. We have the same concerns as the other neighbors.
- XXX. Phil Carter said that Chief Kolenda will also probably weigh with his recommendations. He suggested that we recess this hearing until we have heard from L&I and Chief Kolenda.
- YYY. Betty Allen asked how they would know when the recessed hearing would be.
- ZZZ. Rose Goings said that agendas are posted in town hall and on the website and can be sent out.
- AAAA. **MOTION by Julie Nicoll and seconded by Linda Petty to recess this hearing until May 9, 2016.**
- BBBB. Phil Carter said we need letters from L&I and the Fire Department. He explained that this will still be an open hearing and should not be discussed with board members. He said that evidence may be submitted from anyone who has something to submit and should be given to Rose Goings.
- CCCC. Rose Goings said that we will also need to further discuss the back lot and deliveries and EMS access.
- DDDD. Phil Carter said they could say what the use of the back lot will be. He said that the Fire Marshal may also have some requirements and may dictate what may be there. He added that cooking will probably also be discussed.
- EEEE. **Motion passed unanimously.**

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5. **REVIEW MINUTES**

- A. Phil Carter advised that the minutes to be reviewed are from the meeting of March 14, 2016.
- B. Julie Nicoll said item A on page 4 should read “back to a real.”
- C. Julie Nicoll said item E on page 4 should have “outgoing and ingoing reversed.”
- D. Julie Nicoll said that item U on page 4 should read “back in.”
- E. Julie Nicoll said that item GG on page 5 should read “Main Street, they.”
- F. Phil Carter advised that on page5 item PP should read “back in.”
- G. Julie Nicoll advised that item QQ on page 5 should read “said yes, but it would be.”
- H. **MOTION by John Boehrer and seconded by Julie Nicoll to approve the minutes from March 14, 2016 as amended. Motion passed unanimously.**

6. **OTHER BUSINESS**

- A. Permits from last Meeting
  - i. Rose Goings said that the Aubuchon’s permit was approved.
  - ii. James and Mary Jane Casey – permit was not approved
  - iii. Michael Michalke and Jennifer Snyder – permit was approved
- B. Rose Goings advised that in the Rolka case, briefs are going back and forth and she asked Chris Callahan to see them.
- C. Phil Carter said he saw the Grayck brief.

7. **ADJOURN**

- A. **Motion by Linda Petty and seconded by John Boehrer to adjourn. Motion passed unanimously.**
- B. Meeting closed at 7:45 p.m.

Respectfully submitted,

Lisha Klaiber

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Phil Carter, Chairman

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Julie Nicoll

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John Boehrer

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Linda Petty

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Richard Harrison